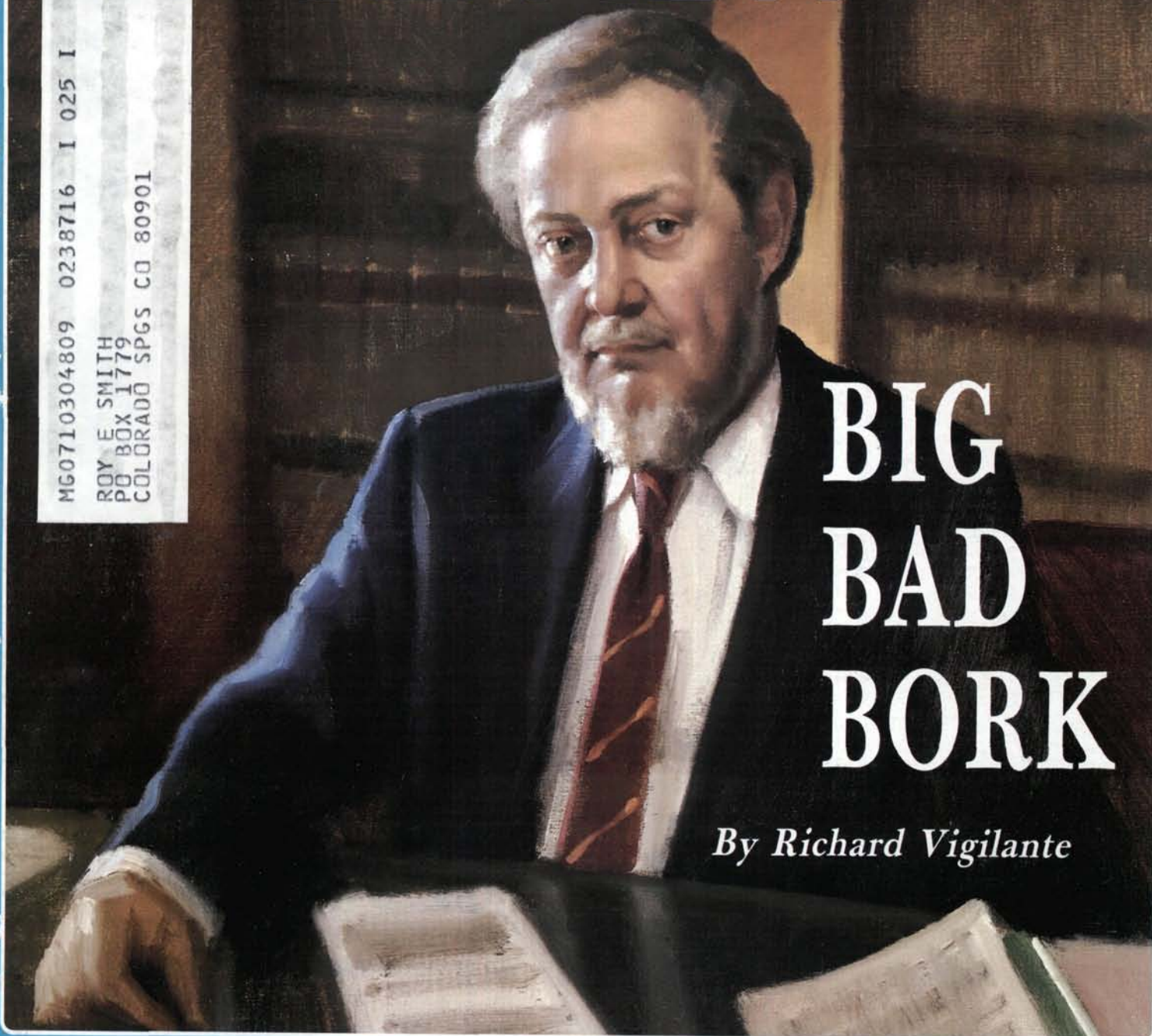


Wm. F. Buckley Jr.  
**DAN BLATHER**

# NATIONAL REVIEW

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A detailed oil painting of William F. Buckley Jr. He is depicted from the chest up, wearing a dark blue suit, a white shirt, and a red tie with diagonal stripes. He has a full, graying beard and mustache, and his hair is also graying. He is looking slightly to the right of the viewer with a serious expression. His hands are resting on a dark surface, possibly a desk, with some papers visible. The background is dark and indistinct.

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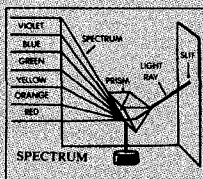
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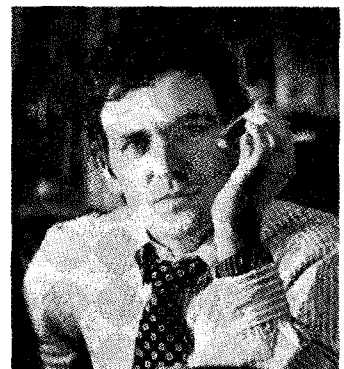
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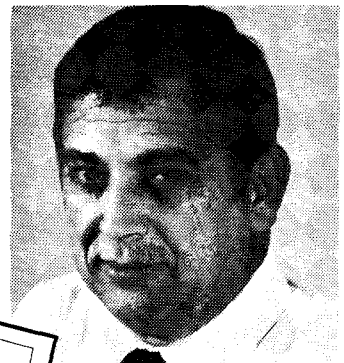
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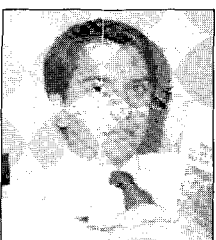
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Cover design by Patrick Sean Gallagher  
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## LETTERS

## The Great Right Hope

I have two questions about the Kemp candidacy ["Can Kemp Do It?" Aug. 14]: Are college students and intellectuals enough of a core to win the fight? And can JFK learn to give a speech without mentioning the gold standard, using far too many statistics, and coining silly phrases that contain the word "opportunity"? I would think *NR* could help with both these weaknesses. Remember: If Kemp fails, we have no candidate we can trust.

Kemp is the *only* candidate with enough integrity to avoid both the Washington establishment and the "us-too" Republicans. George Bush's only consistent loyalties have been to his Texas oil buddies. Bob Dole's have been to the agricultural welfare state. Howard Baker doesn't know anything but how to sell out. Al Haig . . . never mind.

Baker's Cabinet would make Warren Harding's look good, but Kemp would pack his Cabinet with neo-cons, the only group that has the intellectual discipline to present and carry out the conservative agenda.

Sam Evans  
Sharon, Mass.

## The Scandal in Relief

In reference to the article "Scandals in Catholic Relief," by James MacGuire [July 3], I wish to make a few comments and clarifications.

I would like to make it clear that I never resigned from CRS for the reasons implied in your article. To my knowledge, while I worked with CRS in the Africa Regional Office, I was not aware of any abuses, stemming from CRS directives or policy, in the collection of recipient contributions or in the use of these contributions.

Furthermore, it was my experience that the local staff who worked in emergency programs were much stronger than the expatriate staff in defending the policy of charging a minimum recipient fee unless the emergency was extremely severe. They felt that once people received free food, it would be very difficult for them not to depend on it even when the emergency was over.

In fact, this is a dilemma that CRS has always had to live with—the greater the need of people, the greater the danger of creating dependency—and for any-

one to imply that there are clear-cut right or wrong answers to the dilemma is, I think, not well informed about emergency situations.

Also, to my knowledge, food was never diverted from Turkana, a famine area here in Kenya in the early 1980s, to other areas where the situation was less desperate and people were more able to pay.

Finally, in regard to the situation in Ethiopia, I not only felt CRS was doing an excellent job in responding to the emergency, but also I would not have resigned when I did except that I knew there were competent, experienced, professional people in the CRS Regional Office based in Nairobi who were able to carry on as well as I ever could with what I was doing.

As a matter of fact, although I am not full-time with CRS any more, I still go once a year to Gondar, Ethiopia, to teach nutrition to medical students, as part of the health program that CRS is implementing in Ethiopia.

Sr. Fredericka Jacob  
Nairobi, Kenya

## Maine Tainted

I read with interest "Congress's Red Army" [July 31], but I must sadly request that you add the name of Congressman Joseph Brennan (D., Me.) to the list.

Maine publications recently carried a small story detailing Congressman Brennan's attending a rally in Washington where a truck was being loaded and contributions solicited. The truck was to travel to Nicaragua and be presented to Comandante Ortega "in reparation for the damages done to Nicaragua by the Contras and by Colonel Oliver North and his activities."

It seems to me that this fact alone should qualify Mr. Brennan for your list, and if you check his voting record you will find that he is (and openly admits to being) an enthusiastic follower of Senator Ted Kennedy. He espouses all the causes of the (il)liberal Left and belongs to the "I am personally opposed . . ." school on abortion.

While Maine nominally has a split in both the Senate and the House delegations, with Senators Cohen (R.) and Mitchell (D.) and Representatives Snowe (R.) and Brennan (D.), a thorough study of their stands seems to place all of

them well to the left of center to one degree or another.

I leave you with a thought from some group in New Hampshire:

OLLIE NORTH FOR PRESIDENT.

Henry R. Hanson  
Augusta, Me.

## PieCe of the Action

Dan Ritchie's big liberal denomination ["The Presbyterian Moment," July 11] is not quite "the Presbyterian Church," even as the Peking government is not quite "China" to a native of Hong Kong or Taiwan. Smaller but growing conservative "Presbyterian Church[es]" exist. Mine, the Presbyterian Church in America (PCA), with fewer than 200,000 members, fielded more missionaries than either of the big liberal denominations that merged in 1983 to form Mr. Ritchie's Presbyterian Church, though not (yet) more than the two together.

The Orthodox Presbyterian Church has been growing, though very slowly, for most of the last fifty years. Its founder, J. Gresham Machen, may have been the last fundamentalist to receive a respectful obituary (by Pearl S. Buck) in

*The New Republic*. The 1980s' Association of Reformation Churches includes Gary North, whose name some conservatives will recognize. So, all in all, even if Mr. Ritchie's denomination is more liberal than the Southern Baptists ever were, conservative Presbyterians are better off than his term "the Presbyterian Church" would indicate.

Andrew Lohr  
Chattanooga, Tenn.

## Thus Spake Roy Innis

Regarding your editorial paragraph stating that "American blacks deserve better 'spokesmen'" ["The Week," July 31], surely NATIONAL REVIEW is aware that Roy Innis, chairman of the Congress of Racial Equality, has been a staunch and passionate supporter of Bernhard Goetz from day one. Innis's stance on the Goetz case is easily the most representative of blacks overall, notwithstanding the left-wing media's fawning over the likes of Ben Hooks and the other clown princes of racism, like Al Sharpton and Herbert Daughtry.

Innis even called the four thugs who surrounded Goetz "cowardly street hood-

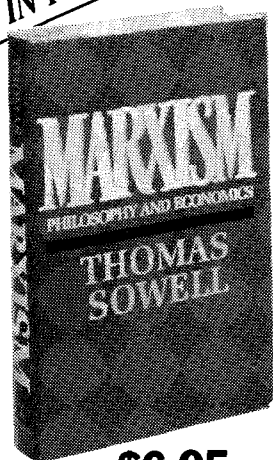
lums." (Did you know he supports SDI, the Contras, and Savimbi?) Instead of providing aid and comfort to black murderers, as the NAACP does, Innis's CORE assists decent blacks like token clerk James Grimes, who shot a criminal who was robbing him. Innis deserves praise from the Right, as well as from the blacks whom he does indeed accurately represent. The fact that the media often censor Innis's views should not surprise us, since they fear him much more than they fear white conservatives. What truly is the problem is that Innis frequently is not given his due by those who agree with him.

Frank Borzellieri  
Glendale, N.Y.

## Living in Reel Time

In John Simon's most recent effort ["Nose Dive," July 31], his favorite standard for judging films is, as in most of his reviews, something called "sense." The story of Cyrano de Bergerac (as revived in Steve Martin's *Roxanne*) "no longer makes sense" because, for one thing, given the easy availability of modern plastic surgery, no one living in

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1987 would be walking around with a schnoz the size of the hero's. In the same piece, Simon knocks Jack Nicholson's character in *The Witches of Eastwick*, complaining that, because on one occasion Van Horne accomplishes diabolical miracles, and on another gets a door slammed in his face, he "doesn't make sense."

It seems that what Simon wants most of all from movies—even from a fanciful comedy like *Roxanne* or a supernatural farce like *Witches*—is realism. He reminds me of the salesman in *Tin Men*

who complains that *Bonanza* isn't realistic enough because "How could those guys be out there on the Ponderosa for all those years without once talking about getting laid?" Simon thinks that a proper comic hero should live and act in his film's world just as he would if he were a real person living in the real world; that a movie devil should behave the way we expect he would if he existed in real life. In short, that film, and presumably art in general, should do its best to tell (what it supposes to be) the truth.

The problem is that that's not what great, even good, art is about. An artist strives not simply to imitate an existing object—a conversation between lovers, a bowl of fruit, a landscape: that is, someone else's creation—but to create something of his own. That's why museums continue to hang paintings rather than scrapping them all in favor of photographs, which these days do far better justice to what the human eye sees than the human hand ever will. That's why, according to Clement Greenberg's famous distinction, hypernaturalistic art is not art at all, but kitsch. Or, as Oscar Wilde said, the greatest artist is also the greatest liar. Between Wilde and Simon, I'll take Wilde.

David Klinghoffer  
New York, N.Y.

*Sense and naturalistic art are by no means identical. Sense and credibility, however, are. It is the artist's task to create a world—realistic or unrealistic—in which we can believe. I believe in Andersen's fairy tales as much as in Dante's Inferno and the Don and Sancho, because their creators knew how to make them believable. I believe in the strange goings-on in such films as The Rules of the Game and Forbidden Games, because their authors made the games part of my reality, compelled me to play along. Of course, art is lies, but*

*it is lies like truth. The good artist, like the good liar, makes you believe in his invented consistency. Therein lies the difference.* —JS

## Counterkultur

In "The Week" [July 31] it was stated that "Contras" was short for "*contrarrevolucionarios*" (true) and was coined by the Sandinistas (false). For many, many years "counterrevolutionaries" has been the disparaging label applied by Marxist-Leninist regimes, notably the Soviet Union, to the people struggling to regain control of their country after a Communist takeover.

It will be recalled that the Soviets quashed what they termed "counterrevolutions" in Czechoslovakia, Hungary, and East Germany and nipped one in the bud in Poland. At present, counter-revolutions are taking place in Afghanistan, Angola, Ethiopia, and Mozambique.

No, the Sandinistas didn't coin a new term; they merely used an old one that, as Marxist-Leninists, they no doubt feel they are entitled to use.

Roy Colby  
Colorado Springs, Colo.

## The Frankenstein Amendment

James Oberg's article reflecting on the hospitality afforded Gary Hart by the Soviet "media" points to an even broader aspect of the useful-idiot continuum ["Capital Bulletins," July 17].

Hart got chewed up by the same monster he so ably nurtured in his many activist roles. Ever since television squatted under the umbrella of the First Amendment and, in easy liaison with a hoary press, billed itself "media," we've had a mutant that no longer serves as nobly as one could wish.

As for the four relevant words in the First Amendment, they simply give the "media" virtual presence without the essence of freedom. The media can reflect equivalence with a Soviet counterpart without even disturbing our moral seismographs. They are more in the nature of a voracious appetite than a basic institution; and they will consume the social fabric of this nation as fast as it can be shredded and fed to them. See the Contra hearings.

A. B. Machen  
Rogue River, Ore.

## Book Him, Danno

Here in Vermont ["For the Record," Aug. 14] there is a groundswell of grassroots support for Senator Daniel Inouye for President—of Japan's Toshiba Corp.

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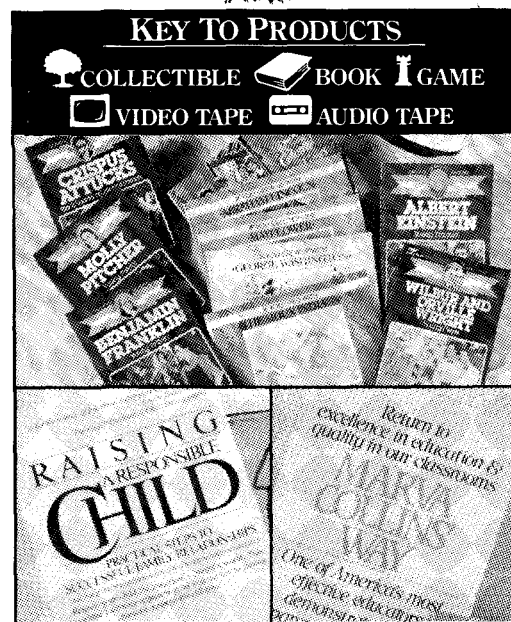
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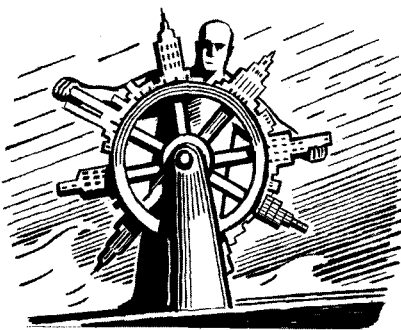
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# FOR THE RECORD

So what did the prolonged Iran-Contra hearings prove? Some unexpected—and, to congressional Democrats, unsettling—results, such as *Los Angeles Times* poll that showed 43 per cent of Americans blamed Congress for the fiasco; only 30 per cent blamed **Ronald Reagan**. . . . And the *Washington Post/ABC News* poll that found 66 per cent of Americans to be “only somewhat/hardly at all/not at all bothered,” even if Reagan himself okayed the transfer of funds to the Contras.

. . . **Mary McGrory** was disappointed with Congress. “Congress has been lied to, berated, patronized, needled, baited, and, in the case of Lt. Col. **Oliver North**, mugged by witnesses, [despite which] Congress, like a battered wife, will take back the abusive husband [Ronald Reagan].” . . . Congressman **Newt Gingrich** was delighted: “The country, for the first time in my lifetime, saw the left wing of Congress face to face.” . . . On a Midwestern tour during the last week of hearings, *Washington Post* political reporter **David Broder** found the three-month-long hearings “have faded as a topic of conversation.” . . . Inside the Beltway, the big discussion turned on who showed up well and who screwed up on the panel. *Washington Post* interviews showed Democratic political consultant **Robert Squier** and Republican political consultant **Roger Stone** agreeing that Sen. **George Mitchell** (D., Me.) improved his reputation. Stone liked performance of Congressman **Henry Hyde** (R., Ill.): “He was feisty, he was combative, and he was articulate.” According to Stone, Sen. **Warren Rudman** (R., N.H.) hurt himself. “He was so busy grasping for the memorable phrase and playing the prosecutor that he forgot about his constituents at home.” . . . **Arthur Schlesinger Jr.** said House chairman **Lee Hamilton** (D., Ind.) “imparted a moral quality to the proceedings.” . . . Sen. **William Cohen** (R., Me.) made a strong impression on historian **Forrest McDon-**



*“You will go to prison until such time as the prison becomes too full to accommodate you.”*

**ald** (University of Alabama), but, **McDonald** confessed, “to tell you the truth, I’ve forgotten what it was.”

Oliver North has proved a bonanza for conservative fundraisers. National Conservative Political Action Committee (NCPAC) says its response rate has improved 200 per cent with a letter that refers to North 11 times in 14 paragraphs. . . . Republican National Committee Chairman **Frank Fahrenkopf** says a mailing that praises North has done exceptionally well. Before North, says Fahrenkopf, many people didn’t know “a Sandinista from a Contra.” . . . North’s own legal assistance fund has brought in \$1.4 million. . . . **Richard Cheney**, chairman of the Republican Conference in the House, is sending out kits with Oliver North’s slide presentation on Nicaragua to drum up support for Contras. . . . But *Pravda* newsman **Tomas Kolesnichenko** is not fooled. “The outburst of unbridled chauvinism that is currently shaking America is no accident. At one time [America’s] hero was Lt. **Calley**—do you remember the mass

shooting at Mylai? Now Oliver North is on the pedestal.”

On the **Robert Bork** nomination, responsible Democrats now worry that pre-emptive strikes by feminists, civil-righters, gays may boomerang. Senate Majority Leader **Robert Byrd** says the nomination should not become “a litmus test of party affiliation and loyalty.” Byrd says that he doesn’t know how he will vote in committee, but that he will vote the nomination out for floor action. . . . New York Gov. **Mario Cuomo** has rebuked presidential candidate and Senate Judiciary Committee Chairman **Joseph Biden** for his premature anti-Borkism: “It’s the worst kind of irony to condemn Bork on the grounds that he’s not open-minded about the law when you yourself haven’t waited for the hearings to take place.” . . . Even **Ralph Neas**, executive director of the Leadership Conference on Civil Rights—which is very active in the anti-Bork campaign—warned young leftists meeting in Chicago not to be “heavy-handed.” . . . For the first time in its history, **Common Cause** has come out against a Supreme Court nomination, and the **ACLU** will decide later this month whether to weigh in in the battle (against Bork, of course). The only Supreme Court Justice the ACLU has ever opposed was **William Rehnquist**, in 1972. . . . **Gus Hall**, head of the U.S. Communist Party, believes he has the full story. Resignations of Justices **Lewis Powell** and **Warren Burger** were “too pat.” “The pieces fit too well into the Reagan plan of leaving the nation an ultra-reactionary federal court system. I would bet they either got big money under the table or were threatened with some skeleton found in their closets, or both.”

**Robert and Linda Lichter**, who examined, for bias, 180 TV news stories dealing with the Iran-Contra affair, found; a) journalists’ on-air judgments of individuals were overwhelmingly negative (96 to 4 per cent); b) overall coverage of individuals was 61 per cent negative; but c) President Reagan was the only individual to get mainly positive coverage. However, “his 3 to 2 positive margin stems mostly from his own statements, reflecting the President’s command of the airwaves.”

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# THE WEEK

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□ Representative Patricia Schroeder has figured out a great way to reverse the immigration trend. She is thinking about running for President.

□ Speaking in South Dakota, George Bush ran into an unexpected questioner: John Linder, the brother of Benjamin. Linder accused the Contras of murdering his brother and repeated the Sandinista account of how he was shot point-blank after being wounded. Bush replied that Benjamin had "made his choice" to serve the Sandinistas, and noted that he'd also been reported to have owned Sandinista military uniforms and to have been carrying a Soviet-made rifle when he died. The Vice President expressed his regret for young Linder, but promised to keep supporting the Contras if he becomes President. Well done.

□ The *New York Times* just noticed that stock prices have tripled over the past five years, adding \$1.8 trillion to the wealth of forty million stockholders, and concluded that this is a worrisome thing: "Many are troubled by rampant greed . . . there are storm clouds . . . experts and economists are uneasy . . . investment from abroad has also created worry." However, the Bank for International Settlements recently offered a more positive appraisal, noting that if stock-market gains are added to savings, the U.S. savings rate has been higher than Germany's since 1979. "In the United States," says the BIS, "stock-market gains have caused the ratio of household-sector net financial wealth to personal income to return to its levels of the late 1960s." If higher net worth is a bad thing, there are at least seven presidential aspirants eager to turn it around.

□ By appointing a gay medical researcher, Dr. Frank Lilly, to the new AIDS commission, President Reagan has 1) legitimated the strangest special-interest lobby afoot, 2) baffled and demoralized his devoted Religious Right and social-issue supporters, 3) strengthened the misguided notion that those who, knowing what they now know, still engage in AIDS-spreading behavior are to be regarded as "victims," and 4) given a conservative Republican benison to a cause he should have let liberal Democrats have to themselves. In return for what? The gays displayed their gratitude by vilifying John Cardinal O'Connor ("a symbol of

hatred") and protesting his appointment to the commission because he opposes gay-rights laws in New York City. The Sunday after the panel members were named, a homosexual mob picketed St. Patrick's Cathedral and then entered the church during Mass, standing with their backs to the altar. Except for columnist Ray Kerrison in the *New York Post*, by the way, none of the city's apostles of tolerance objected to this interference with the free exercise of religion, preoccupied as they were with more important freedoms.

□ Governments that cannot prevent general strikes cannot govern. This basic rule of politics suggests that the Panamanian regime of General Noriega will not last. With most of his population against him, and the United States pushing hard to oust him, the strongman's position is untenable. His anti-American rantings have alienated the country that is most desirous of stability in Panama, while winning him few friends at home. Noriega's backdoor dealings with Castro and with the Sandinistas are yet another factor that contributed to the Reagan Administration's decision to suspend millions of dollars in economic and military aid to Panama. When the authoritarians flirt with the totalitarians, it is time for a change.

□ Britain and only Britain has banned *Spycatcher*, the memoirs of the former secret agent Peter Wright. Even Australia, where Wright now dwells, has permitted sale of the book—and, for that matter, the American edition is openly sold in England. It looks like the most futile effort at censorship since . . . well, whatever the last one was. Wright contends that Roger Hollis, former head of MI-5, was a Soviet agent; also that some in MI-5 conspired to unseat Harold Wilson as prime minister in 1974. Not all the reviewers find it convincing, but worldwide sales are brisk.

□ Fidel Castro's revolution is running on empty. Roaring out of the Cuban hills 28 years ago, Castro drew wildly enthusiastic responses from Havana to Harvard, but today, at sixty, the aging dictator sputters and gasps. In his recent state-of-the-revolution speech in the provincial town of Artemisa he held an audience of 100,000 captive in their seats for over

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## LETTER FROM WASHINGTON

**T**WO THINGS are certain about the fight coming up this fall between the Administration and Congress over money for the Nicaraguan Contras: It will be sharp and short. In previous years, Congress—especially the House—put off voting on the controversial issue until the previous aid package was about to run dry. This time, however, Congress will not be able to dither. The Administration has proposed a swap with the Sandinista regime: In the next two months, the Sandinistas would impose a ceasefire, agree to give up Soviet-bloc aid, and make democratic reforms; in return, the U.S. would end Contra support. If the Sandinistas refuse, as many observers believe they will, the White House will then ask Congress for \$150 million on September 30, under rules of expedited procedure that would force Congress to vote without delay. Insiders expect a 51 to 49 vote, but no one knows whether for or against.

Many House Democrats dismiss the White House peace plan as a hoax and are confident they can defeat the President. Yet some congressional leaders, including House Speaker Jim Wright, support the peace plan because they know that if it fails and if Contra aid is then voted down, Congress will have no Central American policy—a default that would reflect miserably on the Democrats. The specter of such irresponsibility, in turn, might become Congress's most compelling reason for extending aid. Got it? All of which inclines old political hands here to believe that, the Iran-

Contra affair notwithstanding, Contra aid will squeak through by a hair.

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On the issue of AIDS funding, the current bipartisan congressional consensus is: The more the better. Thanks largely to the efforts of Orrin Hatch (R., Utah), the Senate has drafted comprehensive AIDS legislation. Hatch started from an unpopular bill offered by Edward Kennedy (D., Mass.) and reworked it to create more broadly acceptable programs. This Kennedy-Hatch measure calls for \$600 million for research and education, giving a lot of authority to states on how to use the funds. In a separate piece of legislation, bound to be more controversial, Kennedy, in conjunction with Representative Henry Waxman (D., Calif.), is asking for \$400 million for AIDS testing and counseling.

Bottom line: Watch for Congress to allocate about \$1 billion for AIDS programs this year. Practically no one is stressing the obvious, namely that research facilities cannot now absorb the moneys Congress has lavishly supplied. Like everybody else, lawmakers are in a near panic over AIDS.

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Democrats in Congress fear that Alan Greenspan, incoming chairman of the Federal Reserve Board, is Arthur Burns redivivus. Appointed Fed chairman in 1969 by President Nixon, Burns stimulated the economy in election years to bolster Republicans' reelection chances. Democrats on the Senate Banking Committee, which recently reviewed Greenspan's credentials before approving his nomination 20 to 0, foresee an economic downturn in 1988. If that happens, they believe, the White House would almost certainly

pressure Greenspan to pump money into the economy in order to keep interest rates low. This, however, would spell inflation.

Greenspan repeatedly told the Banking Committee that he was his own economist, and would be guided by sound monetary policy, not politics. But, of course, politics and economics are not disentwinable, and the Fed, despite its reputation for independence, has ultra-sensitive political antennae. Greenspan, whose political wits are seasoned and sharp, knows that both the White House and Congress expect him to be responsive. "He'll be very accessible," says GOP Senator Phil Gramm, with permissible smugness.

In point of fact, Greenspan will no doubt smile at both Republican and Democratic would-be money meddlers and then do his own thing. "Alan's instinctive independence will be reinforced by political motives," says Richard Medley, a Washington economics consultant. "Greenspan's not an Arthur Burns, appointed at the beginning of two presidential terms; he doesn't want to be on the wrong end of a new Administration coming in."

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Elizabeth Dole will shelve her Transportation Department duties in August to campaign full time for her husband. Mrs. Dole will canvass mostly alone, hitting two or three states a day, while her husband attends to other parts of the country. Her main function will be to raise money, but if early indicators remain constant, she might have an uphill struggle pulling in the big donors in the absence of The Candidate. A fundraiser in her home town, expected to draw one hundred people, had only thirty acceptances the day before the event. —CATO

two hours, trying in vain to renew his people's spirits in the face of a collapsing economy and two recent humiliating defections. "These are difficult days," he said, "but days of honor . . . days of creativity": He told his listeners they would need to start doing more unpaid ("voluntary") labor, and put in more 14-hour days. Unimpressed by the modest steps his Soviet counterparts have been making lately in the direction of political "openness" and market-oriented economics, Castro clung fast to orthodoxy and called for economic and ideological "rectification," promising that Cuba would follow the "correct path" toward recovery. On the subject of the defectors (one a colonel in

the Cuban intelligence service, the other an air-force general now making anti-Castro broadcasts over Radio Marti), he cried out against the "miserable and repugnant traitors" who were betraying his revolution. The sound of despair grows louder and louder.

□ The Communists declared war on Corazon Aquino last week, reaching into the Manila stronghold to murder Jaime Ferrer, her Minister of Local Government. As Max Singer pointed out in an *NR* article (Aug. 14), Ferrer had helped rig the May elections Mrs. Aquino's way and had been ruthless in deposing local officials who opposed the government or were

suspected of helping the Communist New People's Army. So he was marked out for death by the "sparrows," the NPA's urban arm, and shot down just outside his home. So much for Mrs. Aquino's effort to negotiate an end to the insurgency.

□ California, which, in the common understanding, willingly, and often zealously, ingests, pound for pound, more peculiar chemicals than anyplace else on earth, has a new law inviting all concerned (read: activists) to sue any company for issuing suspected cancer-causing agents, of being which, everything is suspected nowadays; and should the lawsuit result in a fine, the aforesaid busybodies get 25 per cent of the booty. California may last the year, but it's a stupid bet.

□ CLARIFICATION: In an article by Ted Williams, "On the Reservation: America's Apartheid," appearing in the May 8, 1987, issue of NATIONAL REVIEW, it was stated that members of the Jicarilla Tribal Council misused federal funds for personal benefit. The sole basis for these statements was a petition filed by Mrs. Bernice Muskrat with the Secretary of the Interior, and the article should have specified that these were in fact allegations. This petition, wherein Mrs. Muskrat sought a *pro rata* share in unidentified tribal assets, was rejected in 1985 by the secretary, and no further action with respect to such petition has been taken by either the secretary or Mrs. Muskrat.

□ Burglars broke into an Indianapolis woman's home, wrote a note saying, "Dear Lady, we didn't find anything worth stealing," and left her six bucks.

□ Astronomers report thinking they have found black holes in nearby (as such things are reckoned) galaxies. Black holes are "concentrations of matter so dense that they have collapsed upon themselves and nothing, not even light, can escape." If that isn't proof government exists in other galaxies, we don't know what it will take.

□ There is a hit song on the airwaves telling teens to say no to premarital sex. With nary a mention of condoms, either. Too bad it's in Spanish.

## Exeunt Omnes

**A**S THE stagehands sweep the green room, and the techies take down the gels, it is worthwhile reflecting how little the Iran-Contra hearings, for three months the hottest ticket in Washington, have changed the disposition of forces as they existed at the beginning of this year, or the judgment of the mass of the American people.

## Biden's Bork Wound

Not as deep as a well, to be sure,  
Or as wide as a church door, perhaps,  
But it's doubtful a Band-Aid can cure  
One of Washington's juicier flaps.

W. H. VON DREELE

1. The most movement of public opinion has been registered on the Nicaraguan resistance, the Contras. Last year, polls were showing not only that a majority of Americans were opposed or indifferent to Contra aid, but that large numbers of people did not even know who the Contras *were*. (Is that funny guy with the designer sunglasses on our side? or theirs?) It was always reasonable to suppose that support for the Contras could be generated: A threat in Central America is the kind of thing that concentrates the mind, and there is long American precedent for resenting foreign power-plays there. But, until Lieutenant Colonel North's testimony, there had been no effective statement of the pro-Contra case. Colonel North singlehandedly changed all that—though, given his relatively low rank and the circumstances of his appeal, he could not change opinion sufficiently.

2. The big stinkbomb in the whole affair all along has been the idea of selling arms to Iran. In this, the American people are not reacting to turmoil in the Gulf; they are remembering and resenting the humiliation of the hostage crisis. For 444 days, the United States was pushed around by a gang of lunatic fourth-raters, and we don't like the memory. Ronald Reagan, inaugurated the day the hostages came home, became the symbol of our freedom from that particular mess—and then he seemed to plunge us back in. Score Fs all around.

3. Congressmen get re-elected with dismaying ease these days; nevertheless (or is it *accordingly*?) the public estimate of Congress is low. The hearings showed why. Viewers saw a gaggle of prima donnas, sycophantic when they weren't arrogant. Congress would have been better off sending in Arthur Liman all by himself.

4. Ronald Reagan, the most popular President since Eisenhower, maybe since Roosevelt, was hurt. Not fatally, but very definitely. Even those portions of the hearings that were good, from a conservative point of view, occurred in a post-Reagan context. (Colonel North went before his inquisitors not as the Administration's point man, but as a carefully shunned free agent.) As we go to press, Reagan himself has not been heard from, and his ability to pick himself up off the mat has, historically, been remarkable. He will need all of it.

What are the broader lessons? Senator Inouye, un-

surprisingly, saw in the hearings “a chilling story . . . of deceit and duplicity and the arrogant disregard of the rule of law.” He was painting with a broad brush, but it was not nearly broad enough. The Administration pursued the Iranian arms deal and the Contra supply effort with “deceit” and “duplicity” because Congress cannot keep a secret; it cannot even set coherent policy. “Congress,” wrote *NR* before the hearings began (“The Public Brawl, the Secret War,” by Richard Brookhiser, Jan. 30), “has been a full player in Central American policy from day one. It has set the sums of money to be spent, and specified who may spend them. It has required presidential reports and dictated presidential peace initiatives. It has voted vocally, and often. . . . The result is a policy that opposes Contra aid when Ronald Reagan walks by some dead totalitarians, but favors it when Daniel Ortega visits live ones; that balks at the public exposure of means to the ends it has willed, but rallies at phone calls from the Oval Office; that is determined by the vacillations of fifty people whose ‘moderation’ is defined by their lack of conviction on the issue at hand, or their lack of interest.”

The Administration, and future Administrations, also have lessons to learn. Reagan, it is now clear, should have defied the Boland Amendments up front. Nor should he have settled for less aid than he thought necessary. If Congress gave him nothing, he should have promised to hang the consequences around its neck. The Contra policy was important enough to have been fought for openly.

This begs the question: Was Reagan’s Contra policy correct? Is it? Are we doing enough to rally diplomatic opposition to the Sandinistas? Do we know at what point we will be willing—compelled—to use American force? Is there even an outside chance that the Sandinistas would accept and live up to the Administration’s new peace proposal?

We all learn, finally, a lesson in the consequences

of failure. It is ironic, and apt, that the scenes of Colonel North’s operations were also the scenes of two of the great disasters of the Carter years: Nicaragua, and Iran. We tend to think—maybe it’s peculiarly American to think so—that once you lose, that’s that. You pull out, fall back, and start all over again the next day. But it is not that simple, because your next day is always more complicated than you anticipated. We have now a flash-point in our back yard that shouldn’t be there, and a steady headache in the Middle East. One President may let it happen, but his successor—and his successor’s successor—has to deal with it. So defeats reverberate down the channels of the years.

## Bidenquiddick

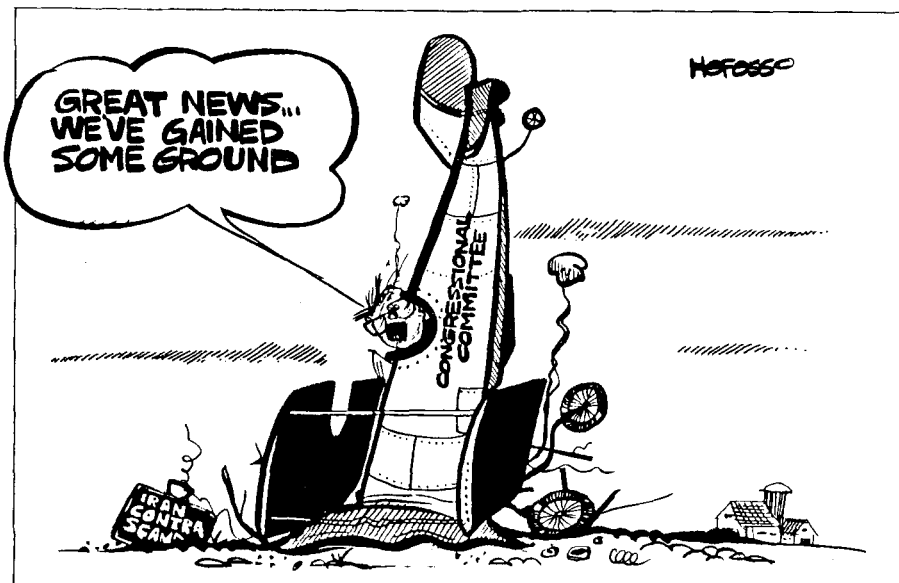
**R**OBERT BORK will be confirmed as a Supreme Court Justice, make no mistake about that, after an epic struggle in which ignorant symbols clash by night. Bork is superbly qualified, he has strong support among his peers in the legal profession, and Justice John Paul Stevens has gone so far as to extend a public welcome to Bork as a prospective colleague on the Supreme Court.

What the Bork nomination has done, however, is to bring into focus, as if through a slide projector, an image of the left wing of the Democratic Party, putting that image up there for all to see. And we see two things: a) a viciousness without precedent in recent American politics, and b) an intellectual condition rapidly approaching weightlessness.

About Senator Edward Kennedy, the less said the better. The occupant of a tribal safe seat from Massachusetts, he sat on the button, blathering about midnight police raids and coat-hanger abortions. Kennedy is an embarrassment to our public life.

But Senator Joseph Biden is a more important matter, a declared presidential candidate and a man who presumes to be taken seriously. When, in 1982, Biden joined the unanimous Senate vote to confirm Robert Bork to the federal appellate bench, he added a notable footnote. He said that Bork is so compellingly qualified that if he were to be nominated to the Supreme Court, well, he, Biden, would have to vote to confirm. If “special interest” groups objected, said Biden, he would just have to take the heat.

Nice. But big Joe Biden has just wrestled with his conscience and won. All it took was for Ben Hooks (NAACP), Eleanor Smeal (NOW), and Jesse Jackson to crack the



Hofoss / Rothco

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## How Dark a Horse?

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**T**HE SETTING for Pete du Pont that afternoon was the New Hampshire mansion of Mr. and Mrs. Arthur Gray, with a hundred or so politically interested people gathered on the lawn, fruit punch, little sandwiches, ninety-degree afternoon heat. The mansion was originally an eighteenth-century tavern. Daniel Webster slept in a downstairs front room on his regular visits to the quarter-session court. The stout wooden shutters have arrow marks in them, souvenirs of times when the natives were restless.

Arthur Gray became politically active in the Draft Eisenhower movement. In Pete du Pont he thinks he has another racehorse. Governor du Pont, two terms in Delaware, before that a congressman, before that Princeton and Harvard Law School, is an American aristocrat. That term does not slide easily into our vocabulary. It comes in a plain brown wrapper. Many American aristocrats are lousy, but Governor du Pont is not. His manners are very direct and he puts on no airs. He is an *American* aristocrat.

At age 52 he is thin and quietly well dressed. He wears, unashamedly, horn-rimmed glasses. (Everyone at Princeton in the 1950s wore horn-rimmed glasses.) He does not hesitate to take his jacket off in the overwhelming heat of that New Hampshire afternoon and roll up the sleeves of his blue shirt. I myself was dressed quietly, in a pink *Gatsby* jacket, Trylon & Perisphere lapel pin to promote my new book, white ducks, and sword cane. The governor complimented me on the demure get-up, and I introduced him to the gathering. He spoke for about 15 minutes and then fielded questions.

Du Pont has charisma, that overworked and misunderstood word. He is precise, eloquent, and never, never says "uh." He makes his main, and for orthodox politics somewhat shocking, points: 1) phase out farm subsidies over a five-year period; 2) yes on SDI: We could not now protect a city from a Soviet missile *fired by accident*; 3) restructure Social Security (he has a plausible plan) before the baby-boomers retire and Social Security taxes double; 4) pay able-bodied welfare recipients only if they *work*; as it is, welfare has become a "prison without walls"; 5) no driver's license for teenagers who do not test drug-free; 6) strong support for the Nicaraguan anti-Communist resistance; and 7) a moving, eloquent tribute to his ancestors who came here from France two hundred years ago, "not even speaking the language," and made it to the top. He backs this up with humbler success stories, including the "boat child" from Vietnam who just graduated from the Air Force Academy.

The governor is justly proud of his record in Delaware. When he took office, that state had the highest income tax in the country, and was dead in the water economically. It had a Democratic legislature hell-bent on spending. Du Pont slashed taxes and attracted business to the state, and Delaware took off. He says: "When your name is du Pont, and you have a Democratic legislature, and you can lower taxes on incomes over \$200,000, well, you know you are doing something right."

Asked how a Republican governor could do this, and how he could prevail as President, he said: "What are congressmen good at? Yes, yes, getting re-elected —" But here he raised his right hand, index finger extended. "They are best at putting their finger in the air and finding out which way the wind is blowing. I can generate the wind."

But is du Pont really *in* the race? He is thought to have serious strength in Delaware, Pennsylvania, and Maine, but the key to success for him lies in Iowa and New Hampshire, in both of which states he is working hard. He spends alternate weeks in the two states, working the parlors, social clubs, supermarkets, street corners, picking up support from local office-holders, and also listening. He listens very well.

The du Pont strategy amounts to a high-stakes roll of the dice. In Iowa, Dole has to beat or at least wound George Bush and fracture his pose of inevitability, while du Pont has to beat Jack Kemp and become *the* alternative to Bush/Dole. If du Pont can come in second or third in Iowa, and then win in New Hampshire, it will be Katy-bar-the-door on Super Tuesday. This is a very peculiar presidential election coming up, the strangest since 1940 and the Willkie surge. There will be no Reagan, and no presumptive nominee like Mondale.

Du Pont calls Bush/Dole "status quo" Republicans. "They want to tinker," he says. "Dole would *raise* taxes, not *as much* as the Democrats would, but he would raise them. If you want the status quo, if you think that what we have is good enough, you don't want to vote for Pete du Pont."

It may be that Pierre du Pont likes to be called "Pete," but this implicitly bows to American egalitarianism. Yet American egalitarians also love class and style, even in a spurious form like Jack Kennedy. The media loved FDR and JFK for, among other reasons, status purposes. Du Pont would have something of a free ride with the media status seekers.

Is the du Pont scenario likely? Maybe not. Is it possible? Yes.

—JEFFREY HART

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## Merlin in the Kremlin

Without a cauldron or the tricks  
Your average wizard uses,  
He's managed to perfect a mix  
Which cleverly confuses  
Those Democrats who waved the flag  
When Hitler threatened Poland,  
But hyperventilate or gag  
At Contra aid, like Boland.

W. H. VON DREELE

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whip, and Fido Biden eagerly sprang through the required hoops, offering to lead the fight against Bork.

Biden is now stalling the confirmation process. Hearings will not begin until September 15, 76 days after the nomination, an unprecedented delay. The motive behind the Biden stall is to enable Hooks, Smeal, Jackson, and the other usual suspects to mobilize their forces and bring pressure to bear on the Senate.

In the end, it will not work. There are sober Democrats who will vote for Bork. And, perhaps, it is not *intended* to work. The point of Bidenquiddick may not be actually to defeat Bork, but rather to stroke the special interests, to go down gloriously flailing, to stand before that leftist convention next year in Atlanta as the man who fought the good fight and lost. It will be a touching moment, if it comes to pass.

In point of fact, Bork is a most unlikely subject for all this. Far from being the storm trooper of Senator Kennedy's fever-swamp imagination, the judge (see "Who's Afraid of Robert Bork?" p. 25, and "What Hope for the Courts?" p. 36) zealously believes, on principle, in judicial restraint, and in *legislative* pre-eminence in policy-making. We do not know, for example, what Bork himself thinks about abortion—and from his legal perspective, which is elegantly non-subjective, it is entirely proper that we do not. His first question as a judge would be what representative government thinks about it.

Conservatives would be wise not to overreact to the leftist zealots on the Bork matter. He and his credentials can speak for themselves. He is a representative-government man, being bitten by fleas.

## The Shores of the Gulf

**T**HE CLASH of Iranian demonstrators in Mecca with Saudi security forces vividly evokes the worst nightmares of the conservative Sunni leaders of the Persian Gulf. The conservative Gulf states have long believed that the real threat to Persian Gulf security was Shiite fundamentalism, not Silkworm missiles; Iranian martyrs, not Iranian mines.

Saudi Arabia, Iraq, Kuwait, Oman, Qatar, and the United Arab Emirates all contain large Shiite minorities subject to influence from Iran. Iraq's Shiites have remained loyal to their own country during the seven-year war with Iran, despite their religious leaning toward the Ayatollah. Whether that loyalty could withstand the test of a smashing Iranian victory, however, is doubtful. In Islam, military victory is a sign of God's blessing.

Provided Congress does not pass some silly amendment (Boland II?) restricting U.S. naval activities in the Persian Gulf, the U.S. Navy should have sufficient power to ensure freedom of navigation in that vital waterway—even with the refusal by our European allies (whom, along with Japan, the oil transported from the Gulf mainly benefits) to send minesweepers there. Control of the waterway will not mean much, however, if the shoreline falls uniformly under the control of radical anti-American regimes ruled by fanatics, religious or otherwise. Such a scenario would send Soviet strategists on a troublemaking shopping spree that could ultimately result in Western oil supplies falling under the control of Soviet client regimes, or in Soviet naval and air bases being established along the Persian Gulf, or in both.

In short, while all eyes are on the interesting naval proceedings in the Persian Gulf, let us not forget that the world's largest and most mobile army has divisions stationed only a few hundred miles to the north. This is one factor in the Persian Gulf equation the United States cannot afford to ignore.

## The Progressive Party

**T**OO BAD Henry Wallace isn't around. He wouldn't have to bolt from the Democratic Party this year: He'd be a strong front-runner.

Six of the eight seekers of the nomination spoke in Chicago recently to a group of "grass-roots political activists," as the *New York Times* report called them (the *Washington Post's* David Broder was franker: He described them as "left-wing").

Jesse Jackson got the biggest cheers: He praised the much-deplored "special interests," who, he said, "are the Democratic Party." He added: "I would rather run to the special interests as a Democrat than run from the special prosecutor as a Republican."

Bruce Babbitt got a standing ovation when he called for national day-care vouchers, but was booed for saying that "Marxism is a dying ideology."

Paul Simon was cheered for boasting that he has voted against all tax cuts for the rich, and for promising to seek a nuclear test ban. Pat Schroeder blamed the Reagan Administration for increased rates of suicide and drug abuse. Joe Biden said that "the world is ready for a new activism." Mike Dukakis denounced the Contras. A good time was had by all.

## The Statistical Poor

**I**SSUING AND interpreting poverty statistics is a shadow game, and the "poverty line" can be drawn wherever you like. The numbers don't prove much, as a rule—but if studied closely they at least have the negative value of deflating a lot of claims and charges.

The latest from the Census Bureau is that the proportion of people below the "poverty line" is down to 13.6 per cent (note the authoritatively fine-tuned decimal), the lowest official figure since 1980. The poverty rate had been rising sharply for two years when Ronald Reagan took office, after having dipped nearly to 11 per cent from mid-Ford to mid-Carter. The peak was 15.2 in 1983.

Though this four-percentage-point fluctuation no doubt reflects real events in some people's lives, chances are they don't know who they are: No siren sounds when you sink below the poverty line, no bell clangs when you creep over it. But the numbers do tend to refute the melodrama of those accusations of yesteryear that the Reagan Administration had declared "war on the poor."

The report also discloses a slight leap in median family income and a widening gap, withal, between the rich and the poor. But what's a poverty report without a widening gap or two? Pundits love 'em: They supply a suitably moralistic angle for what otherwise might be received as relatively good news.

The *Wall Street Journal* reported a few months ago that "there has been no substantial change in the concentration of income for the past 25 years. Since 1960, the range for the top 20 per cent of earners has been between 40.4 per cent and 42.9 per cent [of the nation's current income]; . . . for the bottom 20 per cent, between 4.7 per cent and 5.5 per cent." According to the new report, the top fifth received 46.1 per cent of the nation's current income in 1986, while the bottom fifth received 3.8 per cent.

That is a widening gap. "On the other hand," the *Journal* pointed out, "economists say that the real income of Americans has now doubled since 1950. . . . The rising tide has lifted all boats." Of course, we could probably narrow the gap some by drastically lowering everyone's standard of living. The surest way to fight relative poverty is with absolute poverty.

## Return of the Termites

**C**ONGRESS is bubbling with new ideas, if you can still call socialist ideas new, and our opinion-makers do. The debilitation of the Reagan White House has emboldened the Democrats to beef up the welfare state again, for the first time since the Seventies. The House has passed a major new Medicare bill already—with the blessing, it must be said, of the Admin-

istration. Other proposals would raise the minimum wage, require states to train welfare recipients for jobs, require employers to provide health packages and paid leave for this and that.

So much for Democratic fears of budget deficits. The party's over, the masks are off.

"Socialism" is only an approximate term for the boundless state. It's usually less the result of a conscious ideological design than of collapse, the political habit of taking the path of least resistance. The American constitutional system has been better than most at withstanding the tendency to consolidate all power into a monolith; since 1933, it has been the function of the Republican Party to slow down the process the Democratic Party has sponsored, and for a time it even appeared that Ronald Reagan would reverse it.

The Democratic historian Arthur Schlesinger Jr. sees American history in terms of cycles of energy: bursts of "progressive" verve, led by heroic Democrats, alternating with conservative Republican breathers, during which the moral batteries recharge. He has it backward. The Democrats represent the forces that dissolve the hard-won heritage of political, legal, economic, and moral structure; the Republicans intermittently supply the will to resist. Conservation is *work*.

Which view you take depends on how you define "progress." It's an ill wind that blows nobody any good, and the decline into the total state offers plenty of benefits in the short term for demagogues and their customers. If termites could talk, "progress" is probably the word they'd use to describe the condition of the house until it fell in a heap. The sound of wood being chewed is getting louder.

## Deregulation Disaffection

**T**HE TREND of economic policy often turns on subtle variations of tone as much as on substance. Slogans like "privatization" or "deregulation" create images that influence events, just as "industrial democracy" or "social planning" once did in the past. Today, however, there is a renewed effort to associate "deregulation" with chaos. This is part of a larger campaign to resuscitate the idea that political officials should decide what is allowed to be produced at what price. It is also an attempt to associate Republican ideology with problems that supposedly require a less permissive President—someone who can make the airlines run on time.

For politicians, economic regulation offers the same heady power as taxes, subsidies, and tariffs. These are simply alternative ways by which political power can be used to take wealth from one group and give it to those with more political clout. Indeed, regulation has even *more* political value than taxes, subsidies, and protectionism precisely because its costs are relatively obscure. But there is no such thing as a government

regulation that does not put money in somebody's pocket. A recent *New York Times* piece, for example, complains that "deregulation has cut margins on stock commissions, and new competition has eaten into fees." Pity. Congressional advocates of limits on competition rarely have to pick up the dinner check.

The new partisan effort to give deregulation a bad name actually begins with airlines and airports. This is somewhat ironic, because airline deregulation was the brainchild of President Carter's top economics advisor, Alfred Kahn. But airline deregulation has become Republicanized, and is blamed for things that are no less regulated than they ever were, such as aircraft safety and air-traffic control. The only problem that can really be pinned on deregulation is that airfares dropped so much that ordinary folks could finally afford to travel. As a result, the airports and the skies got crowded. It is surely true that restoring high airfares would reduce the traffic, but that is like proposing a huge tax on cars so that limousines would face fewer tie-ups.

Banking, where the benefits of deregulation are most apparent, is also where congressional Democrats expect to score their first major retrogression. Thanks to financial deregulation, ordinary savers now earn market interest rates, which used to be paid only to those with more than \$100,000 to invest. Interest expenses on auto loans and credit cards have also become more competitive, with the help of "non-banks" like the auto companies and American Express. Naturally, Congress, led by Senator Proxmire and Representative St Germain, wants to stop such bargains. The new banking bill severely restricts the non-banks from competing with banks, and keeps the banks from competing with investment banks. Not surprisingly, as the *New York Times* points out, the banking bill "contains a number of provisions impor-

tant to more limited constituencies of certain members of Congress." This move toward re-regulation is, of course, defended in the name of "competition."

## S&Ls in Wright Country

**A** LOT OF savings-and-loans got into trouble in the early Eighties, squeezed between the high interest rates they needed to pay to attract money and then low rates they were locked into receiving on their outstanding loans; many of them were also hurt by a downturn in the housing market in depressed areas of the country. In addition, however, there have been not-so-innocent victims: people operating somewhere on the continuum between reckless and shady, some of them taking over established S&Ls allegedly for the purpose of financing their own real-estate deals and those of their friends, and relying on subsidies from the Federal Home Loan Bank Board (FHLBB) to keep them afloat.

A 1985 federal audit revealed that 434 S&Ls nationwide were insolvent if they were judged according to "generally accepted accounting principles," instead of the "regulatory accounting principles" that had been used. Normally, insolvent S&Ls would be dissolved by the FHLBB, with their depositors paid off by the Federal Savings and Loan Insurance Corporation (FSLIC). With a problem of this magnitude, however, FSLIC funds were grossly insufficient to buy out even the S&Ls that were most clearly suffering from recklessness, and not from bad luck; FSLIC needed Congress to authorize a loan backed by the future earnings of healthy S&Ls to start the cleanup. The White House and the regulators asked for \$15 billion; Speaker Jim Wright—not normally tight with the taxpayers' money—offered \$5 billion.

The scandal here is that Wright's home state of Texas is also the home of many of the worst offenders among the S&Ls; and he has openly gone to bat for some of the Texas S&Ls in recent months. Wright even got Fernand St Germain, head of the House Banking Committee, to cancel hearings rather than let FSLIC Deputy Director William Black (a Democrat, incidentally) testify on the roguery plaguing the industry.

Black made his point by releasing to the press the history of the Speaker's interference in FHLBB affairs. This account alleges that Wright persuaded FHLBB chairman Edwin Gray (up for reappointment) to call off investigations, buy-outs, and lawsuits in at least three



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## Sailing with Ed Meese

He never sank or made for shore,  
Unlike the *Morro Castle*, or  
Got pooped out in the afternoons,  
Like one of Malcolm Forbes' balloons,  
But sailed on, like Columbus, till  
The Democrats, now looking ill,  
Threw posies at him just to leave  
Before the chairman had to heave.

W. H. VON DREELE

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cases involving Wright's Texas supporters. These disclosures forced Wright publicly to endorse the \$15-billion figure, but he did not work to back up that endorsement. The FHLBB remained hobbled.

Economist Warren Brookes has pointed out that as they continue to pile up bad debt, the net liability of the mismanaged S&Ls could easily reach \$30 to \$40 billion by next year, a figure the healthy sector of the industry could never cover, given its \$900-million annual net income. The taxpayers will have to pick up the bill for Jim Wright's "honest businessmen." Thus Jimbo Wright, who calls for higher taxes "to reduce the deficit," has himself increased it tremendously, not just by the usual pork-barrel spending (though he did recently obtain \$11.8 billion in poverty relief for "honest" real-estate developers in his home district), but by good old-style political interference on behalf of local supporters.

The point man on hobbling S&L regulation once Wright stepped aside was Majority Whip Tony Coelho. Interestingly enough, the Democratic Congressional Campaign Committee was recently forced to repay a Texas S&L some \$48,451 for parties hosted by Wright and Coelho on the S&L's yacht. This is one of the S&Ls Wright had lobbied the FHLBB to ignore. If you think the House Ethics Committee might be interested, guess again. The Speaker personally appoints its members, and they've already cleared Representative St Germain on other banking-related charges. Maybe the executive branch could hold some televised hearings.

## James Reston Steps Down

NOTHING CAN be more irritating than James Reston irritated. He has the capacity to write sentences and whole paragraphs that sound as if they were reincarnations of the *Areopagitica*, the Sermon on the Mount, and the Emancipation Proclamation. Moreover, he has been as wrong as anyone in modern life, e.g., when after they took his appendix out successfully in China in 1971 he proclaimed Mao's Revolution to be

a great spiritual adventure. This was in the middle of the Cultural Revolution.

But damned if we won't miss him. He was, for one thing, a useful ideological weather-vane. But also he was the best mood-setter in the business. When he felt like it, which was often, his columns would read like those old lead pieces in *Time* mag, giving the mood of the week as effectively as Hugh Sidey now gives the mood of the Presidency. It requires uncommon skill to do this; and, more, Scotty Reston's liberal encephalophone sometimes gave off a rare, and for that reason striking, air of civility. Oh, he could be as fustian as Cotton Mather. But every now and then he revealed a kind of tenderness one must assume is the property of the man.

He is off to garden and read more books & that kind of thing but says he will be back by and by, though not on a regular basis. Thirty years is a whole lot, for him as for the nation. But we admit it, we were hooked, and withdrawal will be difficult. We wish him leisure, and a long, free life, for which he should be grateful to the military-industrial complex and us-types.

## Malcolm Baldrige, R I P

IT WAS A sudden loss felt keenly by those who worked closely with him. "This honest man was indeed the noblest work of God," pronounced Vice President George Bush at the Connecticut funeral.

An odd way for a Cabinet member to go, crushed by a horse while riding in a California rodeo, an activity that invites sober impatience. But the event had a metaphorical quality. It suggests the enthusiasms of an earlier America, something TR would have admired; and it also symbolizes the advance of the West and more broadly the Sunbelt to the center of the political stage. Quiche and Perrier this certainly was not. Baldrige was the only man we know of who was at once a member of the Council on Foreign Relations and the Rodeo Cowboys Association—another metaphor, and a hopeful one for the Republic.

A Yale graduate of the class of 1944, Baldrige was a scholar, a gentleman, and a self-made entrepreneur. He had been a member of the Reagan Cabinet from the start, and, though a strong free-trade advocate, he nevertheless took a bare-knuckle view of Japanese protectionism.

At age 64, too soon.

## James Burnham, R I P

JAMES BURNHAM died last week and was buried in Kent, Connecticut, on August 1, in a private ceremony. His friends and admirers are invited to attend a memorial Mass at the Church of Our Savior, Park

Avenue at 38th Street in New York City, on Monday, August 17, at 11 A.M. The next issue of NATIONAL REVIEW will deal extensively with James Burnham, his life and thought.

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## NOTES & ASIDES

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□ Dear Mr. Buckley:

It is with heavy heart that I write this letter. For years I have noticed the anti-Christian bias of many in the media. It has now gone to a new depth.

In the enclosed copies of the comic strip *Bloom County*, cartoonist Berke Breathed referred to one character in his cartoon as "Edith Dreck." The last frame on the enclosed copy shows "Edith Dreck" as a Catholic nun. The word "dreck" is Yiddish and, according to Leo Rosten in his book *The Joys of Yiddish*, means "excrement." Rosten says: "Dreck is forceful, but vulgar—like its English equivalent, 'crap.' . . . I would not recommend your using *dreck* in front of my mother, much less yours, any more than I would approve of your using the sibilant four-letter English word for excrement." The word "Edith" has two meanings—"rich gift" or "prospering and happy."

*The translation for the name given the Christian woman by Mr. Breathed would be "rich gift of shit," or "happy shit."* That this was an intended slur against Christians is evident in the context of the column.

If Mr. Breathed were a Catholic, and referred to a Jewish person in such a manner, he no doubt would be fired by his publisher and his column pulled from papers across the country. That is as it should be. There is simply no room in our society for religious hatred and bias, be it anti-Semitic or anti-Christian.

I have written Katharine Graham, publisher of the *Washington Post*, which syndicates the column, asking that Mr. Breathed be fired immediately. The silence of the Christian community in the face of this onslaught of anti-Christian bias has helped fuel it. It is past time for the Christian community to say that anti-Christian bias in the media is not acceptable.

Sincerely,  
Donald E. Wildmon  
Executive Director  
National Federation for Decency  
Tupelo, Miss.

□ Dear Mr. Buckley:

I read that West German polls show Gorbachev trusted above Reagan. Now that's a surprise. The only sources I've ever seen the German press quote are the *International Herald-Tribune* and the other Reagan loyalists, Sam Donaldson, Peter Jennings, Dan Rather, et al. Who else, in fact, is there to quote? Wouldn't it be a worthwhile contribution to the good of your

country to furnish complimentary subscriptions to *NR* to foreign editors?

My best to you,  
H. N. Kelley  
Bannockburn, Ill.

Dear Mr. Kelley: The editors you're talking about a) wouldn't read *NR*; and b) if they did, wouldn't believe it. The phenomenon is called invincible ignorance. Cordially,  
WFB

□ Dear Mr. Buckley:

Now I know why NATIONAL REVIEW has so few readers. And I find myself stuck with a two-year subscription. Most everything in your magazine is obtuse except the cartoons.

Sincerely,  
Henry S. Fairchild  
Nanticoke, Pa.

Dear Mr. Fairchild: Ah, but NATIONAL REVIEW does not have so few readers. It has more than any other journal of opinion in America. Thank you for the tribute to the cartoonists—we relish them. Unfortunately, our Democratic leaders do not seem to understand them. Perhaps you could issue a trot? Yours cordially,  
WFB

□ Dear Bill:

My cousin, Aaron Condon, a professor of law at the University of Mississippi, received the following anonymous note after exams:

*A professor of law named Condōnius  
Taught procedure, suits, and felonius,  
And ethics, and Latin—  
Good Lord! Who put that in?—  
And more that was clearly Aarōnius.*

Condon pinned the following to the student bulletin board:

*Aaronius? Sir, that is slander.  
(Or Madam, I hasten to pander.)  
The Latin is meant  
To encourage a bent  
Toward classical, ethical candor.*

After receiving a copy of this academic banter, I replied:

*I wouldn't consider it prudent today  
To Condone the Aaronymous student's display—  
For it's Latin we're sura  
In Law (Lex, Jus, Jura)—  
It's Ethics, in Law, that's passé! (Touché.)*

Lee Munsey  
Sheffield, Ala.

Dear Lee: Well, semi-touché. Fun—thanks, —WFB

## COVERT NO MORE?

**T**HE FIRST civilian director of the peacetime Central Intelligence Agency, Allen Dulles, once observed, echoing Alexis de Tocqueville, that Americans make poor spies for the same reason that they make good republicans: their democratic cast of character. Now, for the second time in little more than a decade, the U.S. passion for open government has yielded harsh investigation into how the U.S. operates in the shadowy world of intelligence. Other democracies, notably those which better insulate their leaders from their elected representatives, would find this scrutiny intolerable.

"The Iran-Contra hearings tell our enemies on national television how covert operations work, how paper flows, how decisions are made and executed," laments a former senior congressional intelligence aide. Israel and Portugal helped with the airlift of arms to Iran, and Saudi Arabia brokered the early contact between the U.S. and the Iranians. Non-government agents like Major General Secord were brought in to cover the Administration's involvement in the deal. Such friendly countries and friendly middlemen will almost certainly cold-shoulder U.S. spymasters in the future, declining to reveal contacts, initiatives, data. Intelligence assets are like virginity: Once lost, they're gone forever.

Yet many in Congress and in the intelligence community disagree. They argue that the CIA's virtue vanished long ago, when the Church and Pike committees released voluminous reports on CIA abuses in 1975. The CIA's relationship with Congress soured, weakening the Agency and encouraging intelligence leaks. America became a laughing-stock among our allies, who began to withhold information for fear of media exposure. After the Soviets caught us unawares with their 1979 invasion of Afghanistan, Congress tried to unleash the CIA somewhat, but,

according to intelligence insiders, the earlier damage could not be undone.

There has been one crucial difference between the Church-Pike inquiries and the hearing just ended. During and after the Church hearings, Americans doubted whether the U.S. should even be engaging in "immoral" (some said "amoral") spy operations. "This time, Congress and the American people are focusing on the real need for covert operations," notes Republican House Intelligence Committee member Dan Lungren. "Now the people know how much we need them, so in some ways the CIA is actually strengthened."

There are other reasons why observers here think the CIA, paradoxically, emerges stronger from the Iran-Contra hearings. First, the Agency appears more bureaucratic than it is generally thought to be, a condition that, for once, is felicitous. It pleases institutionally minded legislators. Although the Iran-Contra affair showed former CIA Director Casey helping the National Security Council to carry out secret operations, and deceiving Congress about it, the only person in the Company acting possibly outside or above the law appears to have been Casey himself. It was the NSC, remember, that diverted money to the Contras. The CIA was specifically barred from doing so, and that prohibition was obeyed. "In fact, the hearings have served to emphasize to Congress the controls that exist within the CIA," says a senior Democratic intelligence aide. "The Agency's leadership clearly worries when it doesn't have written authority."

Secondly, the CIA has a better chance of keeping secret operations under wraps now, because Congress has been stung by Oliver North's accusations that it cannot keep covert operations secret. North's charge was implicitly confirmed by the resignation of Democratic Senator Patrick Leahy from the vice chairmanship of the In-

telligence Committee (Leahy leaked copiously to NBC early this year and, to his credit, admitted it). Now, as a point of honor, Congress will work to stop any leaks—for a while, anyway. Legislators who yearn to leak intelligence information in order to sabotage a policy they disapprove of will be expected to hold their tongues, at least for now.

Thirdly, CIA Director-designate William Webster will doubtless strengthen the image of the organization, since he has the wholehearted approval of the committees. Lawmakers believe Webster will scrupulously adhere to all the rules and regulations governing covert actions, and not, like Casey, try to make end-runs around Congress. "No CIA director has ever looked Congress in the eyes and said, 'The hell with you,'" says a former top CIA official. "But Casey came closest."

**S**O, WHAT DOES a stronger CIA—albeit one more tied to Congress—portend in the aftermath of the Iran-Contra hearings? Contrary to the popular alarmism, covert operations will not become an endangered species. President Reagan, of course, can ill afford another potentially explosive operation and will certainly refrain from undertaking one without congressional concurrence. But Mr. Reagan's successor, notwithstanding the Iran-Contra affair—indeed perhaps because of it—stands an excellent chance of seeing his intelligence proposals readily approved by Congress and implemented. Finally, the executor of covert actions will be the CIA, not the NSC or any ad hoc band of the President's men. As former CIA Director William Colby rightly says, "The lesson of the whole Iran affair is, 'For God's sake, let CIA professionals handle the covert stuff.'" Not bad for a hearing that might have enfeebled our primary intelligence organ. □

# GOD & MAN at YALE



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## TROUBLED WATERS

**A**T LAST, Mikhail Gorbachev's *glasnost* has yielded something that deeply impressed me. In *Pravda* the other day, one of his top ideologists wrote that the export of world revolution had become outdated as a foreign-policy concept for the Soviet government. The writer was Yevgeny Primakov, director of the Institute of the World Economy and International Relations.

Primakov went on: "The exclusion of the export of revolution is an imperative of the nuclear century." Such a sweeping reversal of accepted doctrine needed an excuse, and the writer provided it. In essence, what he said was that the Soviet Union needs to spend less on weapons if it is ever to catch up with the United States in the economic sphere.

Now, anybody rash enough to utter such heresies under Stalin would long since have rotted in an unmarked grave; under Khrushchev, would lately have retired from managing a very distant and minor power station; under Brezhnev, would still bear traces of the needles used to inject mind-bending drugs in the psychiatric Gulag devised by Brezhnev's successor, Yuri Andropov, while the latter was head of the KGB.

To provide a relevant Western analogy, one has to turn to religious dogma. The bold Mr. Primakov is questioning the Virgin Birth or even the divinity of Jesus Christ. The second half of the proposition is indeed more relevant than the first, for to question the export of world revolution is to throw doubt on the fundamental dogmas of Lenin, founder of the Soviet "workers' State."

In practical terms, it is clear that Yevgeny Primakov must enjoy protection in high places, namely the General Secretary of the ruling Communist Party (you can't go higher than that). But the interesting thing is surely the precarious nature of the protection.

For the most striking point about Gorbachev's recent shuffle of the Politburo is the clear demonstration that when it comes to top-level appointments, the General Secretary's freedom of maneuver is markedly more circumscribed than Margaret Thatcher's or (even after Irangate) Ronald Reagan's.

Gorbachev was powerful enough to bring the *glasnost* specialist, Aleksandr Yakovlev, into the Politburo, but not strong enough to remove the anti-*glasnost* top ideologist, Yegor Ligachev. Hence the fascinating ideological infighting now in progress in the Kremlin. Ligachev complains that *glasnost* is throwing up "froth and filth," and is in danger of obscuring "those Soviet classics which earned the respect of our party and our people." Strong words, in the ideological State.

The daring of the *glasnost* writers passes belief. *Sovietskaya Rossiya* went so far as to tell its readers that the murder of Czar Nicholas II was an unfortunate crime committed by members of the "Ural Soviet," which had gotten out of hand, and which—horror of horrors!—included many non-Bolsheviks and extremists. Where will it all end?

Still more sensational, though less fundamental, than the call for a ban on the export of revolution was the acknowledgment in *Izvestiya*, organ of the Supreme Soviet, that psychiatric abuse exists in the Soviet Union. And this only a month after Anatoly Koryagin, the dissident psychiatrist, was stripped of his citizenship for saying just that. Last April, Koryagin was forced into exile after spending several years behind bars. So, does the editor of *Izvestiya* now face imprisonment, exile, and deprivation of citizenship?

While all this was going on, Colonel Ollie North was holding America riveted by his performance on Capitol Hill, and the relevance of both performances to the concerns of this col-

umn is closer than might be supposed. Each is a striking demonstration of the failure of a system of government and society: one on the enemy side, the other on ours. Gorbachev is saying, in effect: Socialism hasn't worked, and we don't really need to export revolution, for if we do, then socialism is *never* going to work.

Ollie North's message, in essence, is this: I had to do the things I was called upon to do because the Constitution says the President determines foreign policy, but the Congress won't allow him to run it the way he wants.

**A**FASCINATINGLY misguided article by Sir William Rees-Mogg, a former editor of the *Times* (London), says it all. The article appeared in *The Independent*, and is impeccable in fact and logic. Praising North's bravery and courage, and acknowledging his "superpatriotism," Rees-Mogg also finds him guilty of treason, since he has deliberately betrayed the Constitution.

Why, then, do I say Rees-Mogg is misguided? Because he fails to see that the real problem is that the Constitution that was relevant to the citizens of a country who had chosen to reject the "rather modest tyranny" of George III is now outdated because it is incapable of meeting the needs of a superpower under global threat. The indignation of Senator Inouye, with his own record of patriotic bravery, is understandable. But not every congressman is as patriotically discreet as he, and congressmen in the mass are guilty of turning the frustration of the executive branch into a continuous and irresponsible game.

In principle, it ought to be easier for a truly open society, such as America's, to put its house in order. Yet, contemplating the disasters of the post-Watergate era, I confess that I am less than sanguine. □

# Who's Afraid of Robert Bork?

BY RICHARD VIGILANTE

**D**EMOCRATS must be having second thoughts about congressional inquisitions these days. For almost 15 years the tactic has worked like a charm: Portray a political disagreement, even a nomination, as a scandal (no crime is necessary—the “appearance” or even the “perception” of impropriety will do); set up one of these quasi-judicial show trials wherein Congress plays judge and prosecutor, while the defense doesn’t play at all and can’t be acquitted because there is no definite charge and no verdict; get the press to cooperate by airing a constant succession of new charges before the old ones can be answered—and soon the public will believe that where there is smoke there is fire. In a decade and a half the Democrats have not once prevailed in an important national political struggle except through one of these show trials.

Then came Ollie, who discovered the key to the Democrats’ success: The Republicans’ guilty consciences make cowards of them all. A man who understands this, and who moreover realizes that the Democrats play this game only because they are afraid to contest the issues, can make your average congressman sorry he ever saw a television camera.

If Ollie was the first blow, Robert Bork may be the last straw. Like Ollie, when Bork comes up before his congressional tribunal he will set the agenda. Before they met Ollie, the Democrats were so preoccupied with exploiting the latest scandal they forgot how vulnerable they were on the real issue—their failure to take any action to prevent



the establishment of a Soviet client state on the North American continent. Since the Bork nomination, they have been so busy screaming ideology they have failed to understand that this nomination is really about an idea, and that they are dangerously on the wrong side.

For their part, the Republicans seem terrified that the Bork nomination will be assessed on ideological grounds, which suggests that they also misunderstand its real meaning. At the simplest level,

Bork’s ideology is only the conviction that judges must obey the Constitution rather than rewriting it. Senators who agree should, it seems, be obliged to oppose judicial nominees who disagree. The rule of law is a principle, not an ideology.

Conservatives’ aversion to allowing even so modest and principled a philosophical test probably comes from a suspicion that we ourselves may be insincere. If we hadn’t been taking it on the chin in court, would we really be so insistent that judges keep their opinions to themselves? Most liberals clearly think not.

They are wrong. Judicial conservatism is not a covert grab for power. The philosophy that Bork and others—the most important of whom being Antonin Scalia—have been working out for two decades in papers, speeches, and, lately, opinions and dissents from the bench is not a scholarly bombardment meant to soften up the political beachhead for conservative policy-nerds. Ultimately, liberals have as much stake as conservatives in seeing Bork & Co.’s constitutional philosophy triumph. His thought is aimed not at

forwarding any particular political agenda but at maintaining the arena in which conservatives and liberals can do battle for the hearts and minds of a free people.

## The Architecture of Liberty

**P**OLITICAL CONSERVATIVES have long sought refuge in such slogans as “judicial restraint,” “strict construction,” “interpretivism,” and “original intent,” as if all that was required for good constitutional interpretation were intellectual honesty. But Bork’s enterprise starts from his discovery that honest interpretation, though “not an impossible task by any means . . . is a good deal more complex than [such] slogans” would suggest.

He has used the slogans himself, but his writings belie them. He has endorsed “original intent,” or “intentionalism,” but his writings on the subject make it clear he is not so naïve as to think we have any way of determining the Founders’ states of mind individually or collectively. For him, intentionalism means discovering core constitutional principles with indisputable anchors in the text itself. In other words, it’s not intentionalism.

He has endorsed “interpretivism,” but some of his most important articles and decisions firmly reject “crabbed interpretation,” the insistence that the meaning of a controversial passage can be discovered only by a close calculation of the literal meaning of each word in the passage. To the contrary, he argues, such passages must be interpreted so that they make sense within the context of well-established constitutional values and form a coherent part of the mechanics of the Constitution. Consistently, he asks of controverted passages: Given what we already know, and assuming the Constitution to be a coherent document with all its moving parts in the right places, what must this mean? As a strategy for interpreting individual passages this procedure has the advantages of being both principled, and more persuasive than most other strategies. As a way of thinking about the Constitution as a whole it has even broader and more important implications.

Bork gave this interpretive method its fullest exposition in a now famous 1971 *Indiana Law Journal* article, “Neutral Principles and Some First Amendment Problems.” The first half of the article is devoted to a carefully constructed argument for a judge’s obligation to use “neutral principles” of interpretation so as to avoid imposing his personal values on the law, and some observations on how such principles might be discovered and applied.

There are, in this first section, several points of interest. In the course of trying to determine on what level of generality a principle must operate in order to be neutral, Bork takes up *Brown v. Board of Education*, on which he believes the Warren Court reached the correct result for the wrong reason. His method for reaching the same result is devastating to simple intentionalism. We know, he wrote, “two crucial facts about the history of the Fourteenth Amendment.” Its authors intended to “secure against government action some large measure of racial equality.” But those same authors “were not agreed about what the concept of racial equality requires. Many or most of them had not even thought the matter through.” Some probably believed in black property rights but not voting rights; others, that blacks should be allowed to sit on juries but not

to intermarry with whites. The Supreme Court cannot know how these men would have resolved such issues. But it is charged with enforcing a core idea of racial equality:

And the Court, because it must be neutral, cannot pick and choose between competing gratifications and, likewise, cannot write the detailed code the Framers omitted, requiring equality in one case but not in another. The Court must for that reason choose a general principle of equality that applies to all cases. For the same reason, the Court cannot decide that physical equality is important but psychological equality is not. Thus the no-state-enforced-discrimination rule of *Brown* must overturn and replace the separate-but-equal doctrine of *Plessy v. Ferguson*.

The principle he suggests is broad enough to prevent judges from imposing narrower personal preferences, and yet narrow enough to avoid absurdities. By contrast, he argues, the principle of a “right of privacy” derived by Douglas in *Griswold v. Connecticut* (and later used as the basis of *Roe v. Wade*) has no logical boundary tighter than a general right to be free of government coercion. Since no such rule can possibly be applied in practice, judges will always use it in an unprincipled way, defending freedoms they approve, such as the right to an abortion, but neglecting others, such as the right to sodomy.

Already we can see a “coherence” or “architectural” (Bork doesn’t use those terms) theory of constitutional interpretation emerging. But the heart of the article comes in its discussion of the First Amendment. Bork starts with an irrefutable but quite disturbing observation: It is impossible to believe the First Amendment forbids all restrictions on speaking. Even if the First Amendment applies only to the Federal Government—which Bork does not believe—it is not possible to maintain that the amendment protects incitements to mutiny on naval vessels or shouting “Fire!” in a crowded District of Columbia theater. We thus start from the position that the common literal meaning cannot answer our interpretive needs.

So, we ask, what *must* “freedom of speech” mean? Well, Bork argues, some of the rights enshrined in the Constitution are clearly meant as direct benefits to individuals: “primary individual rights,” he calls them. And some are “instrumental rights,” granted because an individual’s use of them and protection of them in court will help preserve constitutional democracy. But sometimes rights that seem like primary individual rights turn out to make no sense when viewed that way. Free speech is clearly one of these, because the only neutral principle by which we could interpret it thus is, “All speaking is protected,” and we already know that doesn’t work. But we can discover principled boundaries for free speech if we view it instrumentally, as part of the mechanics of the Constitution, or—though Bork would never use such a grand and cheery phrase—as part of the Constitution’s architecture of liberty.

After a complicated analysis Bork arrives at the conclusion that the First Amendment protects only political speech. His reasoning: Free political speech is a necessary precondition to democracy. “[T]he entire structure of the Constitution creates a representative democracy, a form of government that would be meaningless without freedom to discuss government and its policies.” Therefore, within the structure of the Constitution, the purpose of the First Amendment must be to protect political speech.

Bork’s natural inclination as a writer is to sharpen points

and face controversy. In the 1971 article, he went so far as to say that only explicitly political speech, speech about policy and politics, was protected, dismissing the idea that speech with implicit political effects, such as scientific or philosophical speech, was also protected. Even at the time, he appended a partial disclaimer, calling his remarks "tentative and exploratory," put forth only because "at this moment I do not see how I can avoid the conclusions stated." In a 1983 interview he told me he now included virtually all intellectually important speech in the category of political speech. That would still exclude pornography or "Fire!" in a crowded theater, a reasonable result.

Nevertheless, it is important to note with what attention to the project of the Constitution Bork's original specification of explicitly political speech was made. For political speech is not only the essential speech for democratic government, it is the only speech that government *as* government, acting in its own institutional interest, has a motive for suppressing. Citizens might demand the suppression of pornography as a government service, but that is a different thing. There is no instance in American history of a powerful popular movement to suppress important, disinterested intellectual speech. There have been assaults on religious or anti-religious speech, but religion is separately protected. Given our history, one must be impressed at Bork's grasp of the symmetry and mechanics of the Constitution. The moving parts fit; lacking an acceptable literal reading, his is a good if not perfect method of interpretation; it is certainly principled and neutral.

As I have been suggesting, however, the importance of this architectural approach to the Constitution goes beyond yielding a workable and principled method of interpretation for difficult passages. It forces us to contemplate how the Constitution has succeeded in preserving our liberties for two hundred years whereas most documents with similarly noble intentions have failed.

Probably the greatest danger presented by a written Constitution is that it may do its job too well. The purpose of most rules, especially written rules, is to excuse us from thought. It is not necessary each time a hitter safely overruns first base for the players, managers, and umpires to engage in philosophical debate over the justice of allowing overruns at first but not at second and third. We have a rule; without it we could not have a game. On the other hand, if for two hundred years no one involved in base-

ball felt the need to contemplate its rules and argue their virtues, the baseball community might grow decadent and become unable to withstand challenges to the rules.

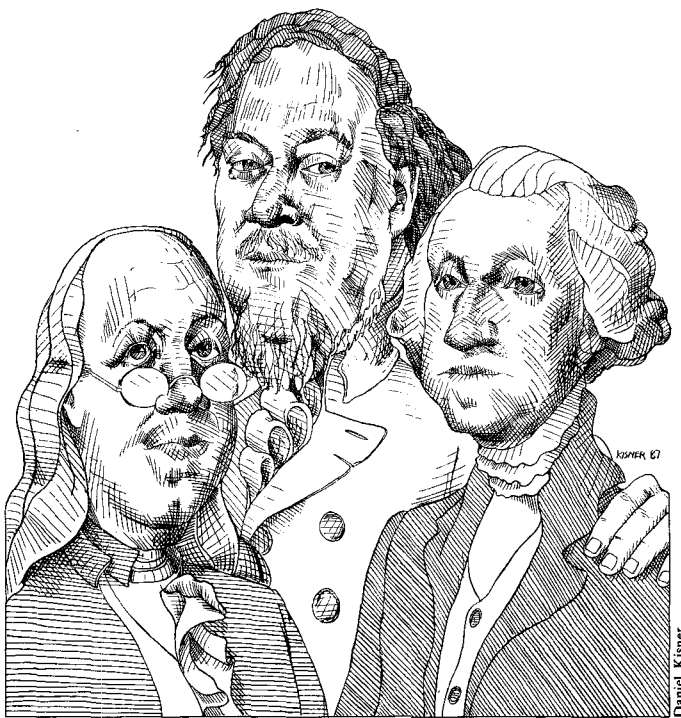
Unwritten constitutions, though unwieldy, are less risky in this one regard. Maintaining unwritten rules requires an active sense of their history and virtues; their very indefiniteness encourages continued debate and contemplation. Among written constitutions, those that lack evident internal logic are most vulnerable to decay. Documents such as the Declaration of the Rights of Man or the UN Declaration are in this category: They quickly come to seem like arbitrary lists of some rights and not others, with little power to bind those who would make a different list. The impulse is to pick them apart, in pursuit of moral perfection, as if some decadent baseballer, discovering that home runs were a good, should knock down all the fences.

In American constitutional theory, such as it is, the Bill of Rights is usually regarded as a list of individual benefits that in themselves express our important political values. The guts of the Constitution, Articles I through VII, get only diminished reverence as dry expressions of the rules of the game. This has twin bad results. The Bill of Rights, however important, must seem arbitrary when it is limited not by any requirements of coherence but only by the opinion of the Supreme Court. This arbitrariness may make these provisions fall into disrepute with many citizens, as has already happened with the First, Fourth, Fifth, and Fourteenth Amendments. Disengaged and contextless, but nevertheless regarded as the essential bulwark of our liberty, they will inevitably provoke strident, unprincipled, and demoralizing arguments over their meaning, which will be thoughtlessly expanded and perverted.

At the same time, such an approach will encourage us to neglect the "guts" of the Constitution and, worse, to consider these structural sections value-free. We will concentrate on enumerating our desired liberties rather than on nurturing a structure by which they may be protected. Our respect and understanding for the constitutional scheme will degenerate, as it has done.

The architectural approach, by contrast, forces us to look at the Constitution as a whole, to contemplate our good fortune with an eye to preserving it. We discover that our rights are not the product of the Founders' (or the Court's) charity. Rather, the Constitution established the conditions under which we create our own liberty.





Democracy in itself is favorable for liberty. Beyond that, the separation of powers; the mix of democratic, aristocratic, and monarchical styles of governance; the federal system; the protections against avaricious factions found in the preservation of contract and the various protections of private property; the strict definition of treason; the prohibition against religious tests for voting or office-holding; the protections for political debate, including free speech, a free press, and the right to assemble and petition for a redress of grievances; the right to bear arms; the prohibition against the quartering of troops in peacetime; the Fourth and Fifth Amendment protections for the accused (which, given the limited criminal-law responsibilities of the Federal Government at the time of the Founding, were probably meant to protect political dissidents); and many other provisions fit together like the stones of the Capitol dome, pushing against each other, supporting each other, to create beneath a vast protected space for liberty.

Lists are easy. Any man may call upon a list of rights. But will they come when he does call to them? Engineering a republic is a more demanding task.

Bork's approach to the Constitution is in itself an argument for constitutional democracy. By showing how it works, he displays its virtues. Here, he says, see this little joint where these two members butt together. You never noticed it. Let me show you how much of our liberty it has protected.

## The Habits of Liberty

**B**ORK IS A LAWYER, and a legal scholar, but these days most of all a judge. Yet his work as a judge is, within strict and principled limits, consistent with his theoretical work. As a practicing jurist the most important constitutional structure he confronts is the separation of powers: that buttress of liberty which judges are most tempted to weaken by extending their own authority.

Bork's insistence that judges should play by the rules

and not seek control over every disputed point in the national debate has made him the most visible spokesman for what the conservative sloganeers call "judicial restraint." But again, the sloganeers miss a lot. Judicial restraint has implications far beyond the obligation to play by the rules. For Bork and theorists of a similar stripe, the importance of the separation of powers, and therefore of judicial restraint, is in maintaining the vigor and independence of democratic citizens. The constitutional architecture does more than provide the structures of liberty, it is meant to breed the habits of liberty.

In explicating the importance of the separation of powers, Bork's former colleague on the D.C. Circuit Court of Appeals, Justice Antonin Scalia, has been of the utmost importance. His most revealing exploration of the subject came in a 1983 article entitled "The Doctrine of Standing as an Element of the Separation of Powers."

It has been traditionally held that only those persons who have suffered a legal wrong producing a specific and personal injury have standing to sue. One cannot, traditionally, sue to overturn an allegedly unconstitutional statute merely because one doesn't like unconstitutional statutes. Unless you sustain actual damage, it's MYOB.

Scalia argues that the purpose of requiring actual injury is not, as some have supposed, to "sharpen the presentation of issues," but rather to preserve the separation of powers. On the way to demonstrating this point, he performs an elegant analysis of how the Constitution's provisions for separation of powers balance the inalienable rights of minorities against the coalescing interests of majorities. The separation of powers, he argues, is vital to the preservation of liberty because it also entails a *specialization* of powers: The different branches of government are suited to protecting different sorts of rights, liberties, and interests.

The courts, in which there is no voting, no marshaling of forces, just one litigant against another, are uniquely well designed to protect the rights of even one man against the entire state. That solitary citizen would get little help from a legislature, with its propensity for counting heads.

For the same reason, courts are no good at providing for the needs of majorities: Whether to raise taxes, whether to deregulate the airlines, are questions to be decided not by assessing the rights of individuals but by resolving the differences of overlapping interest groups. Let this specialization of powers break down and both sorts of decisions—those about individual rights and those about majority needs—will become increasingly arbitrary, inappropriate, frustrating, and cruel.

Justice (then Judge) Scalia focused his argument on the recent "SCRAP" case, which was settled under a much liberalized doctrine of standing. SCRAP was the acronym of a group of Georgetown law students who sued to stop the Interstate Commerce Commission from granting an increase in railroad freight rates. They claimed standing on the basis of a complicated economic analysis purporting to show that higher freight rates would cause a drop in the use of recyclable goods and a correspondent increase in pollution. Since each of them "breathe[d] the air" that "suffered increased pollution" they claimed sufficient injury to sue. The Court agreed, going so far as to intimate that "all who breathe [the country's] air could sue."

The problem with letting this case into court, argued Scalia, is that breathing is not a minority interest. Like

the desire for a well-funded railroad system, it is also a majority interest. The solution is not to raise either good railroads or good air to the level of a court-enforceable right, but to refer legitimate conflicting interests to the political process. As Scalia writes:

Even if the doctrine of standing was once meant to restrict judges "solely to decide on the rights of individuals," what is wrong with having them protect the rights of the majority as well? . . . The answer is that . . . they have been specifically designed to be bad at it—selected from the aristocracy of the highly educated . . . governed by a body of knowledge that values abstract principle over concrete result . . . removed from all accountability to the electorate . . . Where the courts do enforce . . . in the supposed interest of all the people . . . adherence to legislative policies that the political process itself would not enforce, they are likely . . . to be enforcing the political prejudices of their own class.

Thus, he argues, the traditional doctrine of restricted standing has a powerful constitutional purpose.

[T]he law of standing roughly restricts courts to their traditional undemocratic role of protecting individuals and minorities against the impositions of the majority, and excludes them from the (even more undemocratic) role of prescribing how the other two branches should . . . serve the interests of the majority itself.

Like Bork's, Scalia's writings feature persuasive interpretations that do more than interpret: They exhibit the workings of the Constitution and thus implicitly argue its virtues; whereas the overwhelming tendency of Supreme Court jurisprudence of the past several decades has been to alienate citizens from the Constitution by making it appear arbitrary and unworkable.

Madison wrote of the separation of powers that "no political truth is certainly of greater intrinsic value, or is stamped with the authority of more enlightened patrons of liberty." In one of his most important dissents from a ruling of the D.C. Circuit Court (on which he currently sits), Bork, relying explicitly on Scalia, demonstrated why he values this aspect of the constitutional architecture so highly as to have made it a major theme of his career.

The case, *Barnes v. Kline*, involved the "pocket veto," whereby the President may kill a bill passed by both Houses merely by not signing it, if Congress adjourns within ten days of its passage. In *Barnes v. Kline*, the D.C. Circuit Court, at the request of the House leadership, overturned a Reagan pocket veto on the grounds that modern congressional practices render it obsolete in certain cases.

Bork did not dispute the merits, but argued that the court had no right to decide the case, because Congress had no standing to bring it. Congress alleged no harm other than an infringement of its members' pow-

ers to make laws. To call that a concrete harm would suggest that congressmen hold their authority as a matter of personal right, a dangerous assertion never allowed by the Supreme Court. But the D.C. Circuit majority accepted Congress's argument in order to enable itself to referee what normally would have been a political dispute between the political branches. The court argued that its method of resolution would be more convenient than a traditional political row entailing "time-consuming attempts to reintroduce and repass legislation" or "congressional retaliation, refusal to approve presidential nominations, etc."

As Bork noted in dissent, however, these are precisely the sorts of weapons, better known as checks and balances, by which the Founders intended Congress and the President to fight their inevitable duels. By giving Congress its victory for free, the court disturbed the balance:

The majority [of the D.C. Circuit] finds [the Founders'] plan inadequate and the idea of political struggle between the political branches distasteful, at best "time-consuming" and at worst involving "retaliation." Just so. That is what politics in a democracy is.

This hurly-burly conflict that seemed to the court to be a mere unpleasant by-product of democracy is in fact the essential guarantee of liberty. It is political conflict that in the constitutional scheme creates space for liberty. This is the essence of the separation of powers. But there is more involved than a system. The system needs a vigorous people to run it, and politics keeps them vigorous. Like any sport, constitutional democracy requires the players to stay in shape. In a vigorous democracy the citizens get their

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rights the old-fashioned way: They earn them. Taking handouts is dangerous:

[W]hen the federal courts approach the brink of "general supervision of the operations of government," as they do here, the eventual outcome may be even more calamitous . . . Gradually inured to a judiciary that spreads its powers to ever more aspects of governance, the people and their representatives may come to accept courts that usurp powers not given by the Constitution, courts that substitute their discretion for that of the people's representatives. Perhaps this outcome is also the more likely . . . because excesses such as this court's governmental-standing rationale, shrouded as they are in technical doctrine, are not so visible as to excite alarm.

Bork, in defense of democracy, quotes Chesterton: "What is the good of telling a community it has every liberty except the liberty to make laws? The liberty to make laws is what constitutes a free people." The orderly exercise of democratic authority itself breeds the dignity and responsibility necessary to its wise use. A republic needs well-instructed citizens imbued with republican virtues: courage, self-reliance, resolution, gravity, self-denial, prudence. Reducing self-government to the right to petition judicial mandarins erodes those virtues and breeds ill-informed, petulant, unprincipled citizens who think only of winning the next benefit on whatever grounds.

## Liberty and Liberalism

**S**O, TO GET BACK to the good stuff, why are Biden, Kennedy, et al. going to regret they ever heard Bork's name? Why are the Democrats soon going to be pinning for the good old days when it was only Ollie North kicking them around on the TV screens of America? Because the theory that Bork, Scalia, and certain other jurists of similar intellectual power but lesser reputation have been building piecemeal represents the first fully-thought-out expression of the conservative judicial view since liberalism established itself in the courts before World War II. Bork is in the position of an intellectual Ollie North: He is the representative of a view that enjoys overwhelming but inarticulate support among most Americans, but which is rarely given voice in public. Bork will tell them why they are right not to want their Constitution used to defeat common sense, to punish the innocent and protect the guilty, to exalt the alienated and persecute the orthodox.

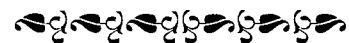
Whether to view the Constitution primarily as a list of personal rights or as a superbly engineered machine of liberty is the essential liberal-conservative disagreement in the judicial field. The liberal method is to peel off a favorite proposition from the Constitution and, contemplating it in the resulting isolation, to use it as a justification for some highly abstract claim of right. The conservative approach, admittedly a bit of a paradox, is to adopt a Burkean perspective on a written Constitution, to view the Constitution as a tool for establishing traditions of liberty. Bork writes:

Th[e] abstract, universalistic style of legal thought has a number of dangers. For one thing, it teaches disrespect for the actual institutions of the American polity. These institutions are designed to achieve compromise, to slow change, to dilute absolutisms . . . They are designed, in short, to do things that abstract generalizations about the just society tend to bring into contempt. . . . It is no small matter to discredit the foundations

upon which our constitutional freedoms have always been sustained and substitute as a bulwark only abstractions of moral philosophy. The difference in approach parallels the difference between the American and French Revolutions, and the outcome for liberty was much less happy under the regime of the "rights of man."

Over the past three decades liberal jurists have attempted to turn the First, Fourth, Fifth, and Fourteenth Amendments into highly abstract and arbitrary rules of a game in which enemies of American life, whether hostile ideas, licentious behavior, or dangerous criminals, must always be spotted two touchdowns in their contest with society.

Insisting that the First Amendment protects pornography and bans religion from public life makes no sense as a rule for the governance of an actual society; such an approach threatens important and cherished values and advances no important rights. It makes sense only as part of a verbal game in which the American people are asked to prove their virtue by their capacity for masochism. Releasing sex murderers back into society on the grounds of the most absurd technicalities benefits no one, including the murderers. It makes sense only if the Fourth and Fifth Amendments are viewed as totems of alienation, before which Americans must sacrifice themselves to prove their moral worth. Yet these are the inevitable results if the liberal theory of the Constitution is accepted. What Bork, Scalia, et al. have done is to enunciate a persuasive, comprehensive argument for denying the liberal theory. Once voters figure that out, with the Senate's help, they are going to be rather grateful. □



## Villanelle: Traffic in Washington

The traffic circles round and round  
And round the stately monument;  
Cars enter with a honking sound.

A civil servant walks her hound,  
A lobbyist lights up a Kent;  
The traffic circles round and round.

Eight cabbies, rushed and Rayburn-bound,  
Yell curses blue as Efferdent;  
Cars enter with a honking sound.

A rented limo runs to ground  
A bag man and a vending gent;  
The traffic circles round and round.

A Metrobus, in gas fumes drowned—  
Left turn on red—is Hades-bent;  
Cars enter with a honking sound.

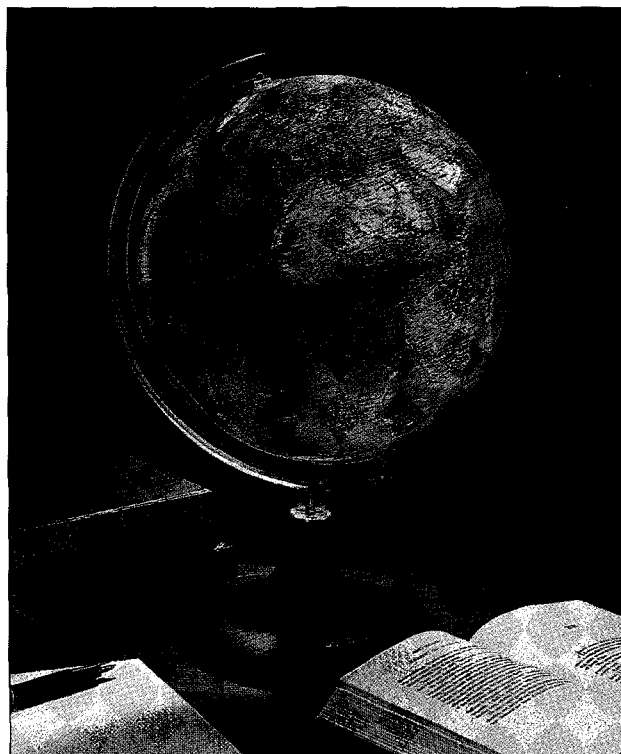
These are the streets of freedom, crowned  
With noble thoughts and brave intent.  
The traffic circles round and round.  
Cars enter with a honking sound.

—MILES DAVID MOORE

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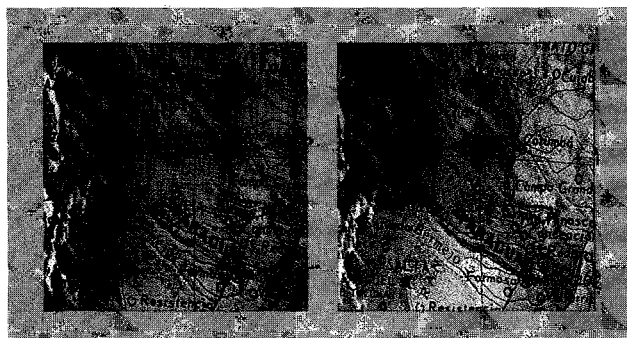
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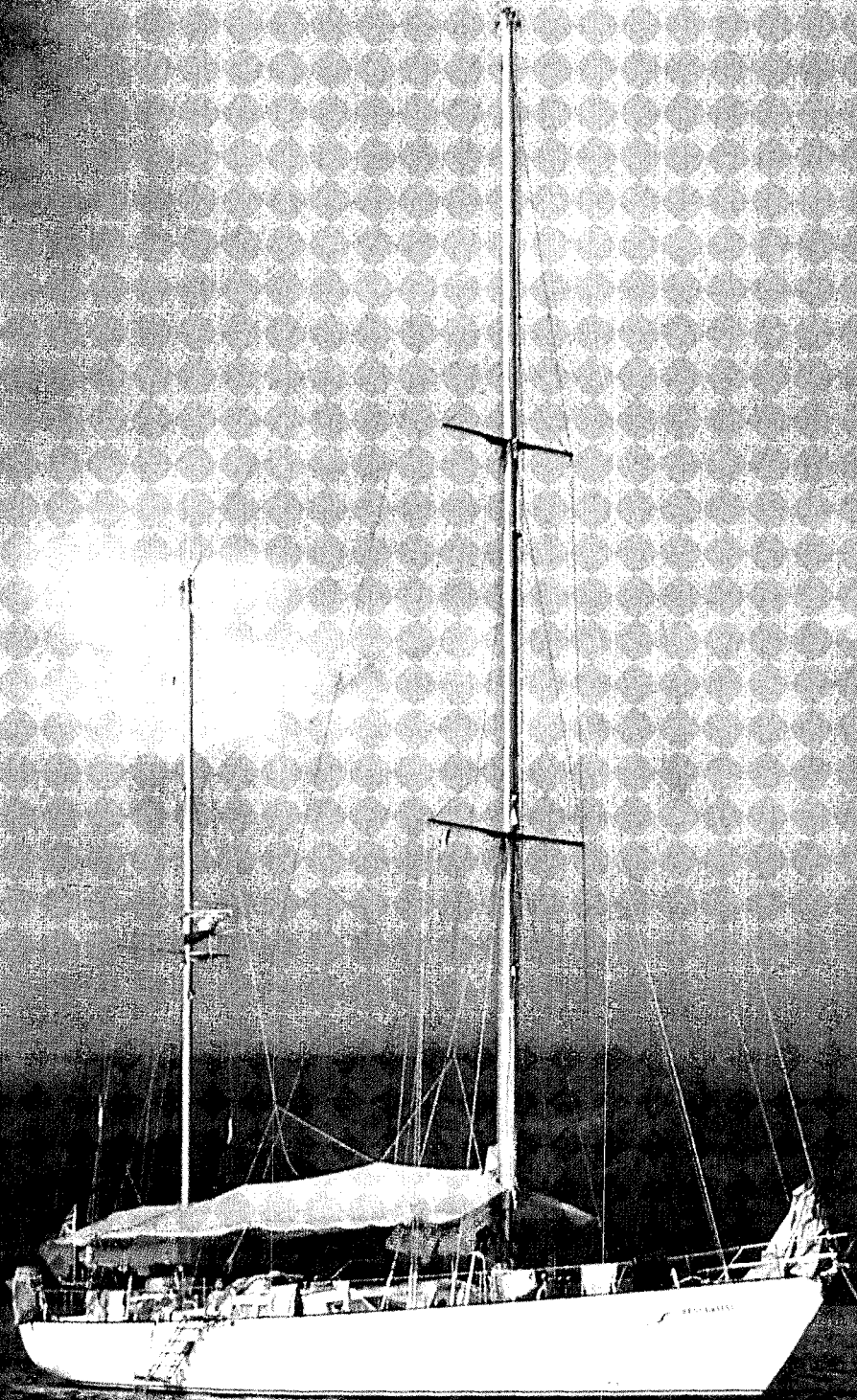
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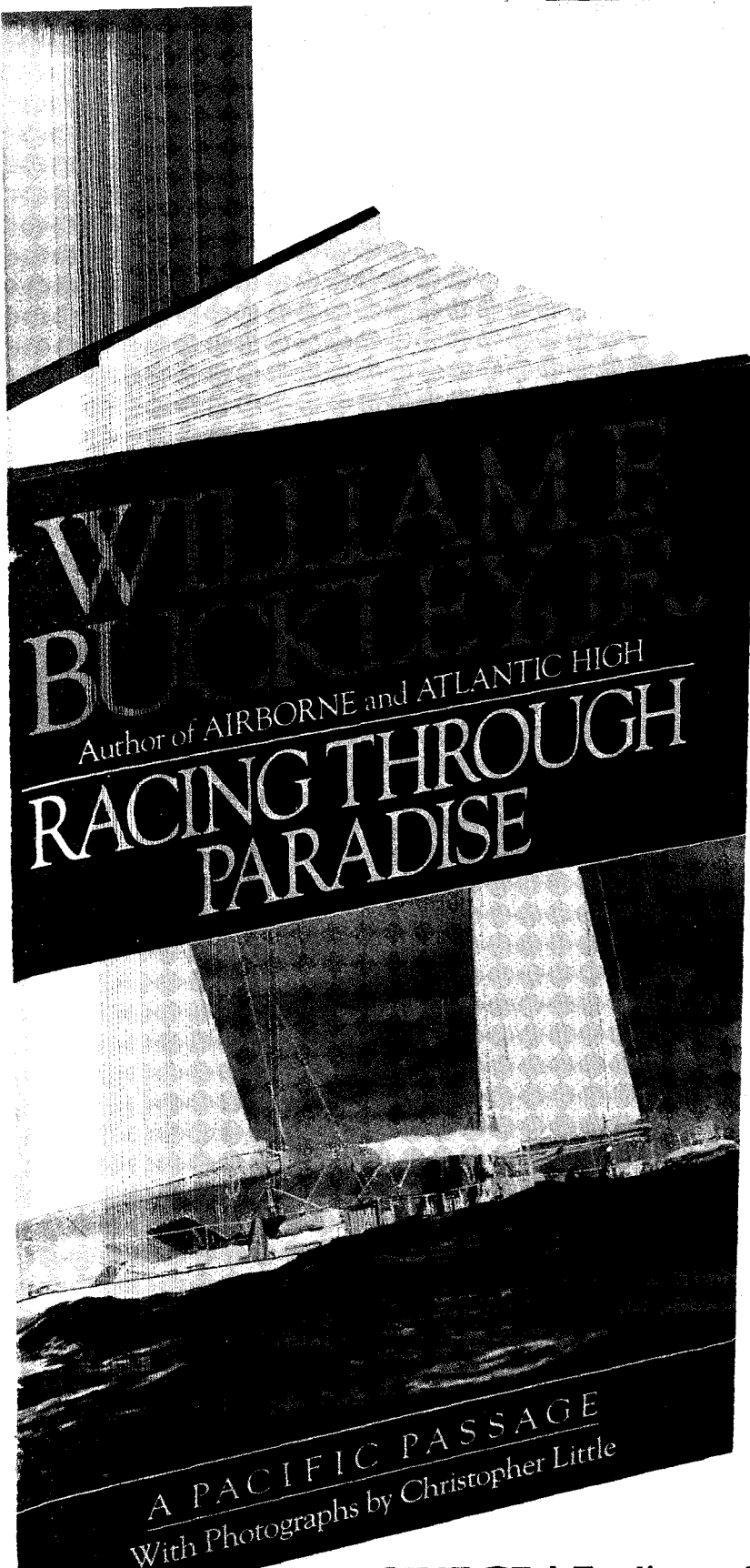
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RACING THROUGH PARADISE  
WILLIAM F. BUCKLEY JR.





## "Racing Through Paradise,

an illustrated account of the Sealestial's 30-day voyage across the Pacific from Hawaii to Papua, New Guinea, is William F. Buckley Jr.'s third—and best—book about blue-water sailing. For Buckley, one suspects, enjoyment is not fully real unless he shares it. He is a master at communicating his enthusiasms, and can't bear to leave any out. One of the many joys of this book is Buckley's relationship with his son. All the usual father-son ambivalences are there, but the two are bound together by a strong, overarching love. All travel books are to some extent meditations, and this one is no exception. *Racing Through Paradise* presents Buckley's view of what is important in life, what really matters: a few close friends, 'a tight ship well aimed,' and the joy of facing the storm."

—BRIAN SCHWARTZ, *Newsday*

"Yet it's not variety alone that keeps us reading *Paradise*. ...The arms of camaraderie seem to reach out and embrace the reader in friendship."

—CHRISTOPHER LEHMANN-HAUPT, *New York Times*

"*Racing Through Paradise*, among other things, makes work and play look like a distinction without a difference. ...Buckley discourses widely and brilliantly on many points of big-league sailing."

—R. Z. SHEPPARD, *Time*

"Buckley writes...with unparalleled excitement and clarity. And what other nautical writer casually lets drop words like 'velleity,' or contemplates the possibility that a crew member may be afflicted with 'creeping acedia'? Who else, totally unabashed, would describe the sea as 'lively without being boisterous'?"

—TIMOTHY FOOTE, *N.Y. Times Book Review*

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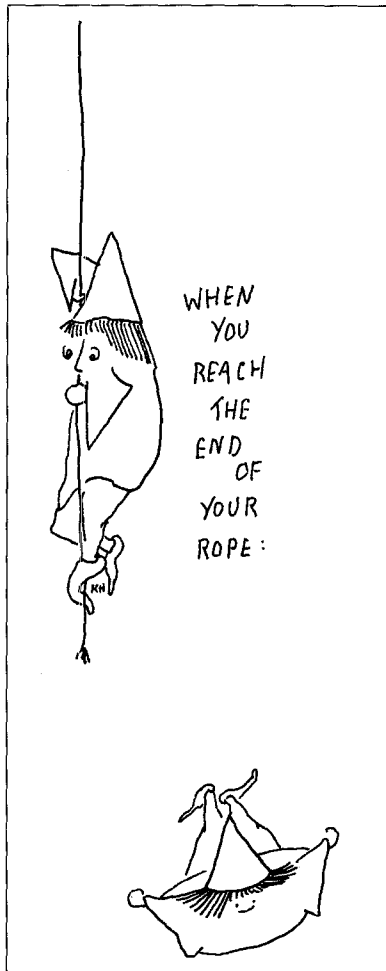
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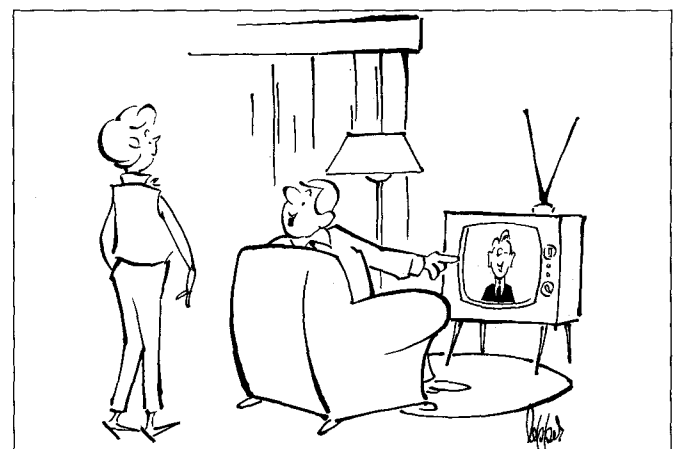
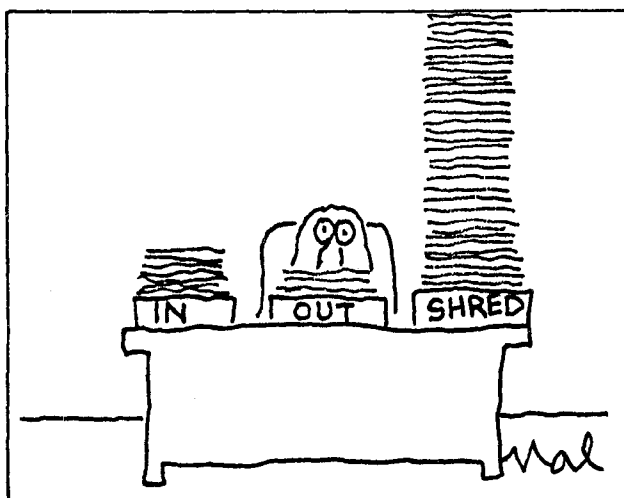
# helo



## It's Unmentionable

The British fleet has thirty ships;  
 When Jellicoe commanded, he  
 Deployed three hundred, give or take  
 A flattop in its infancy.  
 We may not slide as Britain slid,  
 Although the slope lies slick and steep  
 And should, as clearly it is not,  
 Be robbing candidates of sleep.

W. H. VON DREELE



"How about that, Louise! In a special report, the President just said something that Dan Rather didn't say he'd say."

WATKINS Chicago Tribune

THE COMMITTEE  
CALLS BILL CASEY.



CAPTAIN REAGAN AND SECRETARY OF STATE BYRD, SECRETARY OF STATE  
LUGAR, SECRETARY OF STATE NUNN, SECRETARY OF STATE BOLAND,  
SECRETARY OF STATE WRIGHT, SECRETARY OF STATE ...

## WHAT HOPE FOR THE COURTS?

**T**HE 23RD national meeting of the Philadelphia Society was an historic occasion: not only because the Society had put together a formidable program to celebrate the two-hundredth anniversary of the United States Constitution; but because we were convened in Philadelphia. After all, the late Ben Rogge had answered the question, Why is it called the Philadelphia Society? by saying, Because its annual meeting is always held in Chicago. To walk into one's hotel, see Don and Norma Lipsett and all the other old friends—and have the hotel be not the Drake but the Philadelphia Sheraton is strange indeed.

The theme was "Constitutional Government: The Design, the Reality, the Prospect," and the speakers included the attorney general of the United States, the chairman of the Federal Trade Commission, four federal judges, and several prominent historians and constitutional scholars. As Robert Bork put it in his Friday-evening opening address, "Your list of speakers, I think, can only be compared with the 1927 Yankees. When I read it, and realized I was leading off, I was tempted to bunt just to get on base." With all due respect for judicial modesty, however, I must report that the batter took a full swing and hit one out of the park. I was reminded of the remark—I believe it was Dante's—that Jim Burnham used to quote from time to time. Some Guelph conclave was coming up, while there was trouble brewing at home. "If I go," said Dante, "who stays? If I stay, who goes?" I can't imagine there were many people in that room who will be glad to see Robert Bork leave the crucial D.C. Circuit Court. But, equally, I can't imagine there were many who weren't hoping, that April weekend, that a Supreme Court slot would soon open up.

I said the meeting was celebrating the Constitution's bicentennial; but, ac-

tually, the focus was more on mourning what had been done to the Constitution over the last forty of those two hundred years, and on formulating a strategy to rescue it from its Babylonian captivity.

For a century and a half, our nation understood the Constitution to be its most fundamental law—the framework within which our statutes and legal customs and holdovers from common law were arranged. Our nation still so understands it; but our judges and law professors, with a very few exceptions, do not. They are using their positions to advance a political agenda of their own, regardless of the words of the Constitution or the intent of its Framers. Why, then, call what they do constitutional law?

Because, said Judge Bork, the Constitution is the only basis of authority the judges have. "If the Constitution is not law, what authorizes a judge to set at naught the judgment of the representatives of the American people? If the Constitution is not law, why is the judge's authority superior to that of the President, Congress, the armed forces, the departments and the agencies, and that of everyone else in the nation? Why should anybody obey us? No answer exists."

Fifty years ago there was nothing labeled an "interpretivist" school of legal thought. The very term would have been seen as redundant: How could you practice constitutional law *except* by interpreting the Constitution? By the time the term was coined, however, it was almost to taxonomize an extinct species. Judge Bork related a conversation that took place a year or two ago: "I made the argument I just made"—that the Constitution is law—"and an eminent constitutional theorist at a *very* major law school said to me, 'Your notion that the Constitution is law must rest upon some obscure philosophical principle with which I am not familiar.'"

Leaving aside the willfully outrageous, there are more plausible questions raised about methods of interpretation and the discovery of the Framers' intent. Some non-originalists, for example, use psychological and literary-critical analogies. A poet or a novelist, they will say, can be greater than he knows: His unconscious mind can make connections that his conscious mind might fail to understand or even to acknowledge. Just as an author is often not the best critic of his own work, so the Framers may not be the best judge of what their document means.

**B**UT, AS Lino Graglia might say, if the Framers didn't know what they meant, why should we suppose that judges will? Graglia argued, in one of the Philadelphia Society's Saturday panels, for the radical view that judicial review is itself unconstitutional; and added that judicial review is mostly unnecessary anyway, since only very, very seldom will a legislature pass an unconstitutional law. (Graglia told of making this statement in public recently and being challenged to give an example of a law that would be truly unconstitutional. Okay, he said: Suppose Congress passed a law saying women can't vote. But they can't do that, exclaimed his interlocutor. Of course not! said Graglia. That's why they don't: "They can read.")

Fortunately for our side, we know a lot about the Framing of the Constitution, and therefore about what the Framers did think they meant. As Stan Evans put it, "We are, after all, not dealing here with the Rosetta Stone." We have records of the debates; we have the *Federalist Papers*; we have the practices of the several states that ratified the Constitution. In the first Saturday panel, Evans, Mel Bradford, Russell Kirk, and Forrest McDonald performed a cluster of con-

textual case studies, finding no comfort for the non-originalists.

On the matter of the First Amendment—specifically, what the Framers meant by “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”—Bradford took us through the prevailing customs in the original states at the time the Bill of Rights was being drafted. He went down the list of the states, pointing out which ones had religious establishments of one sort or another (and many of these arrangements continued well into the nineteenth century), and down the list of Framers, noting that, contrary to what we have been taught about the prevalence of Deism in that milieu, 52 out of the 55 members of the Constitutional Convention were Christians. This meant, added Russell Kirk, that “they took their primary assumptions about the human condition, consciously or unconsciously, from the Bible and, for many or most of them, from the Book of Common Prayer.” They were not French *philosophes*: They were “assembled not in hope of creating the terrestrial paradise, but rather to contrive a tolerable, practical plan of general government designed for survival.”

It would be impossible, said Evans, to mistake this background were it not for “the liberal history lesson,” in line with which “the Court has undertaken to rewrite our intellectual history.” Evans examined the Supreme Court’s postwar contortions in First Amendment cases, starting with the *Everson* decision, written by Justice Black in 1947. “The establishment-of-religion clause of the First Amendment,” he quoted Black, “means at least this: neither a state nor the Federal Government can set up a church; neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they might adopt to teach or practice religion.” This is the “animating passage,” said Evans, in First Amendment cases, referred to over and over again in decisions on matters of school prayer, state aid to parochial-school students, and so forth. And yet, “What is remarkable about that statement is that it is false in every particular.”

As Bradford’s tour through the various states showed, the overwhelming weight of contemporaneous practice and opinion was in favor of permitting each state to decide what it wanted to do about religious establishment.

Why, then, is this clause so misunderstood? Because, Bork argued, “the political values of the non-originalists . . . are far different, not only from the values of the Constitution, but from those of the American people. The trick is to appropriate the veneration we feel for, and the obedience we give to, the actual Constitution, for non-originalist political results.”

Forrest McDonald’s topic—“the economic order contemplated by the Framers”—was a case study not precisely of interpretation, but of the way that framework, the Constitution, did get filled in in practice. “It is unnecessary,” said McDonald, “for our purposes to inquire whether the Framers of the Constitution intended to . . . bring about a new economic order. Some did in fact, and some did not. The relevant fact is that the adoption of the Constitution made such a transformation possible”—by, among other things, the contracts clause (Article I, Section 10), which “paved the way for the development of a market economy based upon the consent of contracting parties”; the provision for public debt; the provision that made

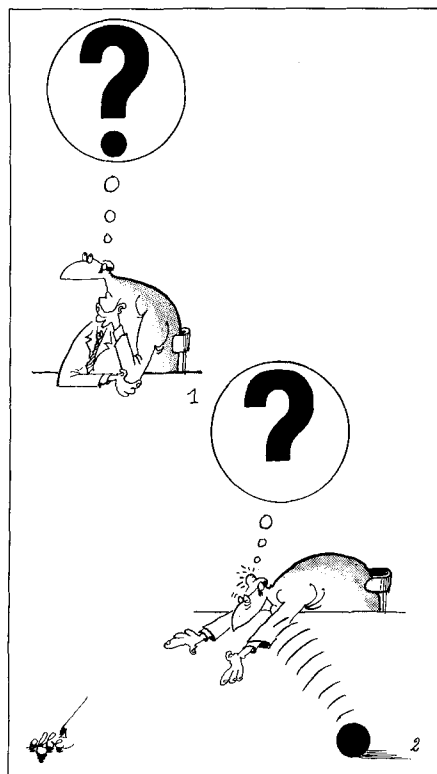
the United States “the largest contiguous area of free trade” in the world; and, above all, “a limited government under law . . . which made possible almost unlimited human achievement.”

**A**S THIS example shows, ours really is a “living Constitution”—not in the sense of existing only in the minds of the Supreme Court Justices, but in the sense of a document hospitable to organic growth. Attorney General Meese took up this theme, after a rousing introduction by Dan Oliver (see *NR*, “The Week,” July 17). “Too often,” said Mr. Meese, “those who claim to be interpreting a ‘living Constitution’ treat it more like a dead tree, from which they seek to hack off what they regard as moribund limbs, or attach artificial foliage to recraft an object that is less a surviving horticultural specimen than a camouflage for their mutations and inventions.”

After all, it was Congress that, in the “enumerated powers” section (Article I, Section 8), was given “the power and the duty to deal with unforeseeable situations.” The legislature is the popular branch, the one that is electorally responsible to the people. “The role of the Supreme Court, on the other hand,” said Mr. Meese, “is to act as a referee, blowing the whistle on Congress when, and only when, Congress goes clearly out of constitutional bounds.” Since World War II, what we have increasingly seen is the judges “leaving behind their role as umpires and instead entering the field as players,” to the detriment of our political process.

On this point, there was general unanimity—except, notably, for one of the afternoon panelists, Henry Manne, law professor and iconoclast. The courts, said Manne, can’t tax you; the courts can’t draft you; the courts can’t initiate action. The most dangerous branch of government is not the courts, but Congress. (The other members of this panel, Judges Brevard Hand, Alex Kozinski, and J. Clifford Wallace, whose experience of the courts we may take to be more intimate, disagreed.) Indeed, said Manne, “the more acts of Congress that the Court can randomly declare unconstitutional, the better off we are.”

Unfortunately, there is nothing random about this. (Continues on page 56)



Frans de Boer

## **FREE TRADE IS NO FREE LUNCH**

**T**HANK GOD I am not a free-trader." So wrote Theodore Roosevelt to Henry Cabot Lodge in 1895. As the United States advanced to first place among industrial nations (surpassing free-trade England), pro-industrial policies were central tenets of the Republican Party, along with low taxes and sound money. Yet, ironically, it is on the Republicans' watch in our own time that the U.S. has experienced a decade of unprecedented trade deficits, transforming our country from the world's largest creditor to its largest debtor. What is even more startling is that the Reagan Administration has been not just complacent about the trade deficit, but actively hostile toward efforts to correct it, a hostility unfortunately shared by much of the conservative movement, including NATIONAL REVIEW.

In recent months, both Alan Reynolds (Feb. 27) and George Gilder (April 24) have argued against an active trade policy, indeed even against the notion that international trade rivalry exists. George Gilder reaches an extreme when he compares Japan to Santa Claus. According to Gilder, imports are gifts.

Alan Reynolds at least acknowledges that permitting Japan unlimited access to American markets "is becoming politically intolerable." Reynolds's solution to the trade problem is one that the Administration has also championed: faster economic growth in Europe and Japan, stimulated by tax cuts (Reynolds's particular passion) and other expansionary monetary and fiscal policies. This approach makes little sense from a supply-side perspective, however, if one views supply-side tax cuts as a way of increasing pro-

ductivity. The last thing Americans should want is for our trade rivals to adopt policies that would make them more potent competitors. Do the Dallas Cowboys hope the Washington Redskins will improve their passing game?

Anyway, European governments are not likely to try to stimulate their economies as Reynolds suggests. Contrary to Reynolds's contention, European economies are not in a state of "collapse." Economic growth in the major European industrial nations has equaled or surpassed that of the United States in recent years. Given that their economies are already growing, European countries are quite rightly reluctant to adopt expansionary policies for fear of setting off a new surge of inflation.

Reynolds's prescription is based on two misconceptions. He claims European economies are "anemic" because "internal economic growth (aside from trade surpluses) has been below 1 per cent a year since 1980." But why should one dismiss trade surpluses as an element of economic growth? Elsewhere, Reynolds freely uses GNP as an indicator of growth, even though GNP does not distinguish between "external" and "internal" growth. GNP is a measure of productive output. It does not matter whether the goods and services produced are sold at home or abroad; income is still generated by the sale of that output.

Reynolds notes approvingly that 68.7 per cent of America's working-age population is employed, compared to only 57.9 per cent in Europe. But what separates the West from the Third World (and from the West of a century ago) is not unemployment rates, but the productivity of those employed. European economic growth has been based on increasing productivity; U.S.

growth, on increasing the number of workers.

Total employment in the U.S. has been growing at an annual rate of 2.3 per cent (September 1984 to April 1987). With real GNP growing at 2.6 per cent, that means our economic growth has been extremely labor-intensive. Reynolds criticizes the Europeans for favoring capital over labor. But in the industrial/technological economy, productivity depends on capital investment, and personal income depends on productivity. Unfortunately, in the U.S., output per manhour for the workforce as a whole has been stagnant, increasing at a mere 0.5 per cent annual rate between the second quarter of 1984 and the first quarter of 1987.

**A**NOTHER repercussion of stagnant productivity should be of particular concern to George Gilder. If output per worker does not increase, the number of people in the workforce must expand to boost total output. And more family members must work if family income is to rise. As productivity declines, more wives and mothers are forced to become breadwinners, accelerating the decline of family life in America.

Instead of increasing income by increasing productivity, America is pushing more workers into lower-paying jobs. According to a report by the Joint Economic Committee of Congress released at the end of 1986, 58 per cent of the new jobs created since 1979 have paid less than \$7,000 a year, while the number of jobs paying over \$28,000 a year has actually declined. The best-paying jobs are the most productive jobs, and these are in industry and high technology. The U.S. is trading good industrial jobs for poor service jobs under the pressure of

*Mr. Hawkins is an economics analyst for the U.S. Business and Industrial Council.*

foreign competition. Young men have been hardest hit. Median income for males aged 20 to 24 (in 1984 dollars) dropped from \$11,572 in 1973 to \$8,072 in 1984. The Department of Labor predicts that, over the next decade, 70 per cent of the new jobs in the ten fastest-growing fields will pay less than average incomes. All are in services; none are high-tech. Rather than accept being pressured into a stagnant, low-productivity service economy, American policy should aim at boosting productivity and securing the domestic market as its economic base.

**T**HERE IS no reason for U.S. policy-makers to concentrate primarily on exports when the world's largest, most accessible, and most affluent market is within our own borders. As Reynolds points out, the prospects for expanding U.S. exports are slim. Since 1982, our annual exports have held steady at around \$220 billion, while our imports have jumped from \$260 billion to \$380 billion. It would take a 75 per cent increase in exports to balance imports—a 75 per cent increase in the face of active foreign industrial policies.

Reynolds hopes that faster economic growth in Europe would lead to Europeans' buying more raw materials from the Third World, easing LDC (less-developed-country) debt so that U.S. exports could again flow to places like Latin America. There is just one problem with this line of reasoning. It is true that under IMF "austerity" programs, LDC debtors have curtailed imports and boosted exports in order to gain foreign exchange to make payments on their debts. But most of these LDC exports have gone to the U.S., since Japan and the Common Market have closed themselves off to higher manufacturing imports. LDC debt has increased by another \$100 billion anyway.

A single-minded concern with increasing exports rather than limiting imports can lead to dangerous gambits. Gilder, for example, proposes that the U.S. drop barriers to selling high technology and other strategic goods to the Soviet bloc. Gilder is not the only writer to take free-trade sentiments to this extreme; Bruce Bartlett of the Heritage Foundation made much the same argument in the libertarian journal *Reason*.

The Soviets have been engaged in a massive military buildup for over two decades. In strategic industries, the Soviet Union outpaces the United States, as it does in military production in general. To offset this difference, Washington has come to rely on the qualitative edge provided by its superior technology. That edge would be lost if technology were freely transferred from the U.S. to the Soviet bloc.

Gilder's basic problem—stemming from his uncritical acceptance of classical economics, which leads to the broader utopianism of liberal philosophy—is his idealization of the "global economy." Gilder revels in the image of "\$70-trillion global money markets" where "capital can fly down fiber optic cables at the speed of light." He embraces the notion that "national economies are no longer nationally owned or controlled," dismissing concerns as "nationalistic fetishes."

But the global economy into which Gilder would lead us is not a utopia, it is a trap. Gilder is so mesmerized by a vision of a Capitalist International of globetrotting entrepreneurs that he ignores the likely costs of "global capitalism" to those ordinary Americans who are not "citizens of the world," those whose future well-being depends on the continued strength of the nation within whose borders they will live out their lives. For while the transportation and communication technology exists for global operations, the political framework to make such operations secure does not.

The United States did not move toward free trade until after World War II. In those optimistic days, the New Deal architects of postwar internationalism saw a *pax Americana* committed to global development.

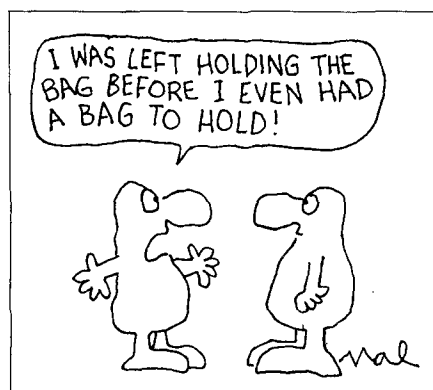
The *pax Americana* turned out to be far less durable than the *pax Romana*. The U.S. has neither the pow-

er nor the will reliably to enforce a global world order. The bipolar post-war world has splintered. Alliances have loosened. A hundred new states have come into existence. International organizations are dominated by members hostile to nearly everything for which the U.S. stands. Radical movements and rogue actors spread instability far and wide. And the Soviet menace remains.

What Gilder's fiber-optic money market can give, it can also take away at the speed of light, whipsawing the economy between boom and bust. In 1985, the U.S. funded its \$100-billion current-account deficit with only \$8 billion in direct investment and \$13 billion in equity and long-term bonds. The rest was in short-term instruments, "hot money" that can be pulled out of the economy almost overnight. A change in relative interest rates, continuing deficits, a political crisis—any of these could trigger a flight from the dollar that would be disastrous.

**B**UT GILDER's utopianism poses an even more direct threat to our national security. The U.S. needs a self-sufficient strategic economic core, including the primary metals industries and their customers in the transportation, machinery, construction, and electrical-goods sectors of the economy. Given the current state of our industrial sector, we are far from strategic self-sufficiency. From steel to computer chips, machine tools to shipbuilding, the American economy is not keeping up with the nation's strategic needs. As the gap widens between our needs and our capabilities—the gap to be filled by imports—the vulnerability of the nation increases and its power becomes more fragile.

"World capitalism," a term Gilder has often used, will prove no more effective than "world Communism," "Christendom," or "Islam" as the basis for a global imperium. Just as Communism depends primarily on the national power of the Soviet Union, the West depends on the national power of the United States. For the U.S. to dissipate the basis of its power in pursuit of some cosmopolitan mirage is to commit societal suicide. Only if the U.S. can maintain its economic independence can it have the freedom of action necessary to fulfill its role as a superpower. □



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## CHILE'S IMPENDING CHOICE

**A**FTER A YEAR in Chile I came to one firm conclusion: It is a surprisingly agreeable country to live in. In Colombia I was herded off buses while soldiers looking for terrorists stuck bayonets through the roof and the cargo. In Ecuador armored jeeps full of rifle-toting soldiers were everywhere. In Peru I spoke to three people who had been tortured. I was in Lima when the army massacred the *Sendero Luminoso* prisoners, during the Socialist Countries for Peace convention. It was in Peru, too, in September 1986, that I read horrific accounts of Pinochet's crackdown following an alleged assassination attempt, with the Peruvian press full of that righteous complacency reserved for the transgressions of one's neighbors.

Yet, crossing the frontier into Chile was curiously like coming home, to a charming, highly literate people, to civil servants, and to a capital city whose theaters were full of plays and revues, many of them sophisticated anti-government satires. Despite continued violations of civil and political rights, and acute economic problems, including severe unemployment, the bizarre truth is that Chile during a State of Siege is, at least superficially, a great deal pleasanter than Peru or Ecuador under normal conditions.

But behind the charming façade, turbulent political pressures are building. The past year has been an exceptionally eventful one. The repressive measures enforced by Pinochet in the wake of the assassination attempt were matched by signs of a new determination in the armed forces and even within Pinochet's own junta to move toward free elections in 1989.

At the end of August 1986, only a few days before the attack, the four-man junta with which Pinochet shares

power refused his request to impose a State of Siege, perhaps the most serious breach with his colleagues in the 13 years of his rule. Junta members Admiral Merino and General Matthei made it known that they would oppose Pinochet's re-election beyond 1989, and three out of the four junta members publicly endorsed free, pluralistic elections, rather than a yes/no plebiscite in 1989.

The assassination attempt itself, in which five of Pinochet's bodyguards were killed, came on September 7, shortly before I entered the country. Santiago was alive with rumors that the attempt was a phony, staged by Pinochet. The jokes were inevitable. According to one popular story, when Pinochet's grandson, who was in Pinochet's car at the time, was later asked, "Weren't you scared during the attack?" he replied, "Oh, it was nothing compared to the rehearsals."

But Pinochet's reaction was no joke. He used the incident, along with the discovery of a supposed cache of terrorist arms (also faked, in the view of some Chileans), to force through the State of Siege after all. Numerous political arrests were made, and a number of independent and strongly anti-Pinochet magazines were shut down. The country substantially closed ranks behind Pinochet. Despite the jokes, Chileans do fear a wave of terrorism. They remember the chaos of the last days of Allende, when threats of a left-wing takeover supported by Cuban and Czechoslovak arms sparked the bloody coup by which the junta first took power in 1973.

The armed forces also reacted strongly, but along a different tack: They accelerated the movement toward talks with opposition parties. In swift succession, representatives of almost all the political parties filed through the office of the Minister of the Interior, Ricardo García. It was the first time Socialists had set foot in La Moneda,

the presidential palace, since the death of Allende. The Chilean Human Rights Commission also met García to denounce violations. On October 28 Pinochet lifted some restrictions as a "sign of normalization," and two hundred exiles were permitted to return to Chile. The State of Siege was lifted at the end of the year.

Yet the power of the regime is still based on an essentially anti-democratic impulse: the ubiquitous fear, carefully nurtured by Pinochet, that Chileans must choose, as he put it, "between order and politicians . . . who always end up giving way to the Marxists." The large majority of Chileans want to see an end to Pinochet's regime, but not if the alternative is a return to the "social experiment" of Allende.

**A**FTER 13 YEARS with no elections, no rallies, and no media coverage, Chile's once-impressive democratic institutions are in disarray. Most Chileans cannot possibly follow all the divisions and factions encompassed in more than twenty parties.

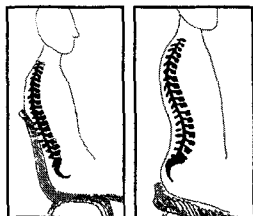
Members of the Christian Democratic leadership have suggested that all the opposition parties unite behind a single candidate, but the proposal naturally aroused great suspicion from both Left and Right. On the Right, the National Party, which was formed in 1966 as a coalition between liberals and conservatives and which missed beating Allende's (Marxist) Popular Unity coalition in 1970 by only 39,000 votes, has split again. The Left is divided between those parties which espouse violence and those which do not. There are at least seven socialist parties, with provocative names like the Authentic Socialists and the Historic Socialists. But moderates fear that when the crunch comes, in 1989, the hard Left will show the same unity that paved the way for Allende's disastrous reign. □

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*Miss Horne recently spent a year living in Chile and backpacking through Peru, Ecuador, Colombia, and Bolivia.*

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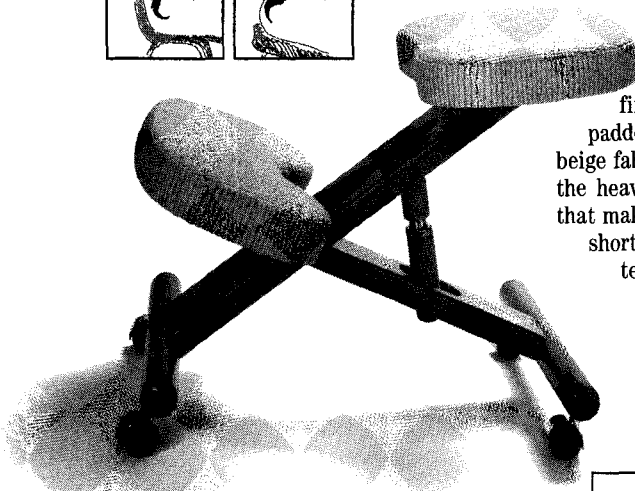
### SIT UP STRAIGHT!



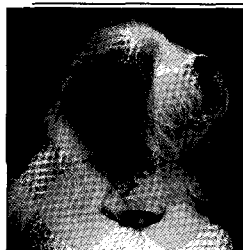
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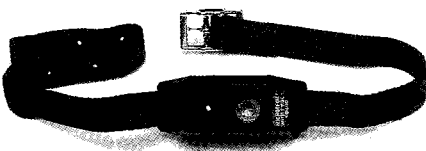
The adjustable back chair requires minimal assembly: a screwdriver and a pair of pliers are all you need. **\$79.95 #1370.**



### BANISH FLEAS

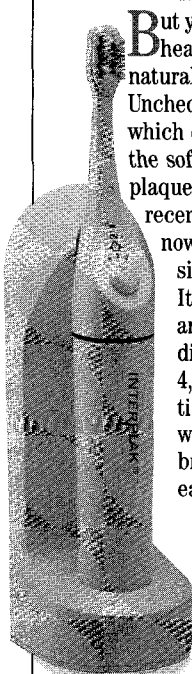


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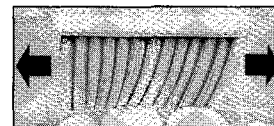
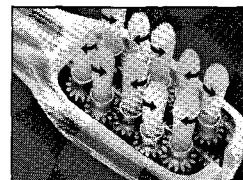
tonic flea collar employs a pulse modulated burst circuit (PMBC) to create such an intolerable noise level, inaudible to humans and pets, that the critters hastily abandon their host animal. This electronic collar works on two lithium cells (included) for six to eight months, and focuses on a four-foot zone of protection. Two fluorescent reflectors on the collar make your pet more visible at night. **\$39.95 #1030.**

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# ABROAD

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## BELGRADE

### *Force of Destruction*

The central government is being forced to confront a situation in the southern region of Kosovo that is disrupting the multi-national, multi-lingual, and multi-religious balance of this heterogeneous country. Kosovo has a militant and growing majority of ethnic Albanians, who are clamoring for status as an independent state, or even union with their hyper-Communist ancestral land. The most recent danger sign, from the point of view of the Communist authorities here, is the expulsion of Serb and Montenegrin inhabitants of Kosovo, often by acts of terror and sabotage, from their farms and from their factory and white-collar jobs. During the Turkish rule of the Balkan peninsula, Moslemized Albanians were implanted in the historical and cultural homeland of the Serbian people. As a result of the First and Second Balkan Wars, in 1912 and 1913, the kingdom of Serbia recovered Kosovo, and in 1918 it became part of the Yugoslav republic. After the Second World War, during a honeymoon between the Belgrade Communist leaders and Enver Hoxha, the dictator of Albania, Kosovo was granted autonomy under Serbian jurisdiction. In time, the Albanians took over the local parliament and the local Party central committee, while Belgrade turned a blind eye to all this. Prodded by the armed forces, Belgrade has now set up a program to stem the flight of the Serbs and repatriate those who have already fled. Admiral Petard Simic put the situation in dramatic terms, saying that further hesitation would be "intolerable," and that if things continued to get worse, Kosovo could be considered "the point of departure for the destruction of Yugoslavia."

## LONDON

### *Three Dimensions*

Madame Tussaud's, where the famous and infamous live on in wax, has become the number-one admission-charging tourist attraction in Britain, toppling the Tower of London from that pinnacle. A total of 2.4 million tourists visited the celebrated waxworks last year. "People still want to see our models because they are three-dimensional, compared to the flat two dimensions of television," said Michael Herbert, chief Tussaud executive. The exhibition was started almost two hundred years ago when the original Madame Tussaud, a Frenchwoman, displayed models of aristocrats whose heads were chopped off by the guillotine in the French Revolution. One of Madame Tussaud's biggest attractions has always been the Chamber of Horrors, devoted to arrangements of life-sized models representing some of the more gruesome scenes of history. The British account for the biggest group of visitors, followed by the Americans, Germans, and Australians.

## SHAOSHAN

### *How They Forgot*

Millions used to visit this big village in Hunan Province where Mao Tse-tung, the Great Helmsman of the People's Republic of China, was born. But that was twenty years ago, during the Cultural Revolution. Today the flood has become a mere trickle. The museum, once open 24 hours

a day, was the home of Mao's parents, who were well-off peasants, and it concentrates on his youth; only one room is devoted to the last twenty years of his life. The worst year for the museum was 1979, the nadir of Mao's official reputation, when only 200,000 came, as opposed to three million in 1966. Recently, however, the figure has gone up somewhat owing to the "re-evaluation" of his role by the Party Central Committee. A little way outside the village stands an immense railroad station for the tens of thousands of visitors who used to come every day. Now there is only one train a day, and that usually half empty. A factory that used to turn out huge numbers of Mao medallions has produced mainly plastic utensils in the past few years. The factory manager says there are only a few hundred of the medallions left in stock.

## REGINA

### *Old Believers*

The preservation of wetlands is one of the oldest concerns of the worldwide environmental movement. Wetlands—marshes, estuaries, and tidal inlets, as well as natural coastlines—provide a necessary habitat for breeding fish: It is estimated that two-thirds of the fish caught around the world are intimately linked with natural wetlands. Wetlands are also essential to many species of birds, and serve in addition as purifiers of water and protective barriers against flood and erosion. The Ramsar Convention, which was set up in 1971 to protect wetlands all over the globe, met recently here in Saskatchewan to see if it can fund a budget and a secretariat of its own, and not depend on grants from other conservation groups. There are at present 357 different sites covered by the convention. Many of these are under threat from agricultural draining, dam and canal building, and resort and industrial development. Pollution, in the form of insecticides and farm fertilizer, is another menace. Ironically, development funding by international organizations can have negative effects, as when money is spent to increase the output of European agriculture, which already generates price-depressing, undisposable surpluses.



"Bet you anything someone suggests cutting us down to one clapped-out Cessna and a missile."

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# A DEATH MUCH EXAGGERATED

**I**T HAS BEEN famously said that the great unreported fact of our century is the death of socialism. But there is somewhat more to it than that.

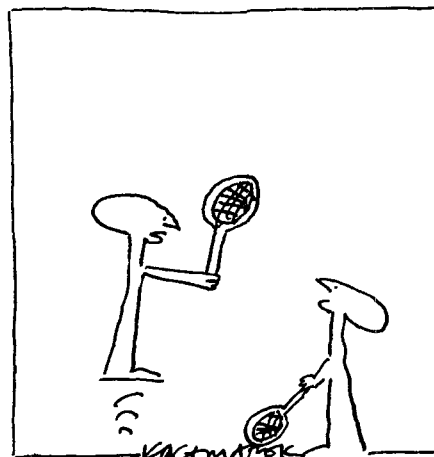
At a recent Boston University conference convened by Peter Berger, the theme question was "Is the Capitalism v. Socialism Debate Obsolete?" About thirty scholars, mainly economists, did not agree on an answer, but, after hearing reports on the state of the debate in the U.S., Latin America, Western and Eastern Europe, India, Africa, and Asia, everyone agreed that it was a very good question. And that, significantly, would not have been the case even five years ago.

Socialism as a system of political economy has come a cropper wherever it has been tried. It has turned out to be politically oppressive, culturally stifling, and economically disastrous. To be sure, there are those who insist that "true socialism" hasn't been tried yet. What is called socialism is typically welfare-state capitalism (Sweden) or confused and usually despotic collectivism (most of the "socialist experiments" among the poor nations). Stubborn adherence to a "true socialism that has yet to be tried" is one reason why the socialism/capitalism debate is not obsolete. As an analytical term, "socialism" is decreasingly useful or interesting. Its status as a term of symbolic and moral meaning is something else.

"Define your terms!" Conferences such as that at Boston U. always run the risk of getting bogged down in definitional squabbling. It was a close thing, but this one did not succumb. It was generally agreed that, on the basis of common sense and historical experience, we know the difference between capitalism and socialism. Admittedly, there is a continuum, and no society is "purely" capitalist or "purely" socialist, but most societies can be plausibly placed on a scale from one

to ten. State-directed economic decisions and government ownership of property, for example, place a society at one end of the scale, market decisions and private ownership at the other. Throughout the world, the momentum today is toward the capitalist end of the scale—although, for reasons that have nothing to do with economics, many defensively claim to be moving toward a truer socialism.

From all this you might expect that it would be hard to find really enthusiastic socialists today. Fear not. Not for nothing do we have religion. For religious activists of a liberationist bent, the charms of socialism increase precisely as socialism is spurned by those preoccupied with the merely economic. There would seem to be two reasons for this. It used to be that the argument for socialism—in the mode of the Fabians, for instance—was made on the basis of efficiency. Capitalism is irrational and wasteful, socialism rational and efficient. Now that experience has debunked that doctrine, the case for socialism must be made almost exclusively on moral grounds. And standing on those grounds are a host of enthusiasts, the proof of whose radicalism is their aptitude in transcending the questions of "mere" efficiency.



"I grew up on cement courts."

The second reason why discredited and discarded socialisms are given such warm asylum in some religious circles is that Christians feel a need to posit an alternative to the way things are. Behind this felt need is a perfectly legitimate, indeed imperative, insight: Biblical believers must never permit themselves to be satisfied with any condition short of the promised kingdom of God. When, however, people lose confidence in that transcendent promise, they begin to sniff around for alternatives in the present to which they might attach their hopes. For Christians and many other morally earnest folk, socialism for a long time now has been that "something else." And if it keeps escaping our historical grasp, its very elusiveness accents the characteristic of "otherness" that qualifies it as a worthy moral vision. Thus is the moral authenticity of socialism confirmed by its practical failure.

## *The One True Socialism*

**A** REMARKABLE range of people still say that they think of themselves as socialists—of one kind or another, so to speak, so to dream. They too feel called to be critical, and so they must be devoted to something other than the status quo. Democratic capitalism is presumably the status quo in which they live, and therefore it cannot be the required something other. But now it becomes increasingly hard to deny that neither is socialism that something other. It is a project familiar, tattered, tired, and failed. The something other, it is therefore suggested, must be the true socialism beyond socialisms.

Socialism is not dead, then, and the debate is not obsolete. Not so long as there is dispute over identifying the corpse as that of socialism. Not so long as the ghostly dreams that drive men's minds whisper that their name is Socialism. □

# BOOKS ARTS & MANNERS

## RESURRECTING FEDERALISM

**George W. Carey**

*Federalism: The Founders' Design*, by Raoul Berger (Oklahoma, 223 pp., \$16.95)

**R**AOUL BERGER'S *Federalism: The Founders' Design* is indispensable reading for those conservatives who have long felt that the national government has unconstitutionally intruded upon the reserved powers of the states but who were not quite sure of their grounds. Indeed, this short work makes the best constitutional case for the states'-rights position we have. Berger performs an invaluable service by directly challenging certain currently accepted constitutional interpretations, particularly those of Edward Corwin, whose premises ineluctably lead to the conclusion that our Founding Fathers bequeathed us a unitary, rather than a federal, system.

Berger is not unmindful of the fact that critics of his conception of constitutionalism, with its reliance on "original intention," will—much as they

*Helle Bering-Jensen is a critic and writer living in Washington, D.C.*

*Tom Bethell is a frequent contributor to Harper's, The American Spectator, NR, and other periodicals.*

*George W. Carey is a professor of government at Georgetown University and, with Willmoore Kendall, the author of The Basic Symbols of the American Political Tradition.*

*Paul Gottfried is a Senior Editor of The World & I.*

*Jeffrey Meyers's The Wounded Spirit will be reissued for T. E. Lawrence's centenary; his Manic Power: Robert Lowell and His Circle will be published this year.*

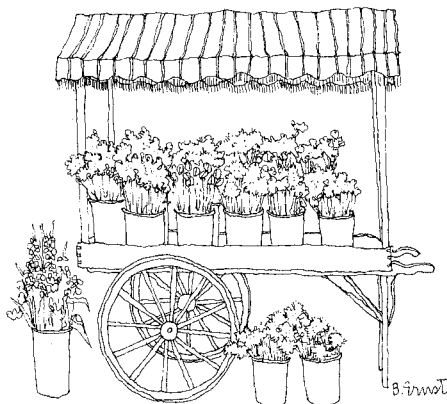
*Robert Royal is Vice President for Research at the Ethics and Public Policy Center, Washington, D.C.*

have done with regard to his monumental work on the Fourteenth Amendment—dismiss his arguments by asking why we should be bound down by the "dead hand" of the past. His answers—which show how his approach relates to the rule of law, "government by the consent of the governed," as well as to time-honored practices of constitutional interpretation—are set forth in an appendix and in both the opening and concluding chapters. Suffice it to say, they do expose the intellectual shabbiness of the judicial-revisionist position as championed, for example, by Justice Brennan. (Readers interested in pursuing some of Berger's best work on original intention may also wish to turn to his *Selected Essays on the Constitution*, recently published by the James River Press in cooperation with the Center for Judicial Studies.)

Berger's starting point for understanding the character of our Union is an inquiry into the status of the several states before the adoption of the Constitution. In challenging the widely held view, advanced by Justice Story in his influential *Commentaries*, that the "national [government] was established first and the states were its creation," he presents an impressive array of evidence that after the Dec-

laration of Independence the states were considered independent sovereignties, not merely constituent parts of one united nation. For instance, he notes, the independence and sovereignty of the states was not only "writ large on the face of the Articles of Confederation," it was also recognized in the Treaty of Paris with Great Britain (1783), which expressly acknowledged the states as "sovereign and independent." Moreover, the ratifiers in the state conventions, even the strongest nationalists among them, recognized "pre-existing state sovereignty." James Wilson, in presenting the case for the proposed Constitution at the Pennsylvania ratifying convention, explained the "task" confronting the Constitutional Convention in terms of framing a government for "13 independent and sovereign states."

Berger's conclusions in this respect lend considerable credence to the proposition that what emerged from the Philadelphia Convention was not a system of national supremacy, but one of "dual sovereignty." In fact, as he shows, there is incontrovertible evidence to the effect that this "dual sovereignty" view was almost universally accepted at the time of ratification. Such clearly was Madison's view when he wrote in the *Federalist* that the national authority extended only to "certain enumerated objects," leaving "to the several States a residuary and inviolable sovereignty over all other objects." Even Hamilton, in selling the Constitution, embraced this position, stressing that the states retained "certain exclusive and very important portions of sovereign power." In sum, the state and national governments were conceived of as having relatively separate spheres of authority, each being sovereign within its own sphere; an understanding that, Berger observes,



was even reflected in Marshall's decision in *McCulloch v. Maryland* and that prevailed, for the most part, well into this century, until the Court ratified the New Deal.

To put this in other terms, what constitutional scholars, following Corwin's lead, have called "dual federalism"—i.e., the doctrine that the scope of the express powers of the national government is constitutionally limited by the reserved powers of the states—is, for Berger, just plain federalism. On Berger's showing, the Tenth Amendment only reiterates in no uncertain terms the basic constitutional principle of dual sovereignty; that is, within the states' sphere of inviolable sovereignty reside the "police" powers to protect the health, safety, and morals of their citizens, and the authority to regulate primarily intrastate or local concerns. It is, he adds, with this understanding that one must view the "supremacy clause" and its bearing on the question of state-national jurisdiction: This clause confers supremacy only on laws made in "pursuance of the Constitution," i.e., those which do not intrude upon the constitutionally protected sphere of state sovereignty.

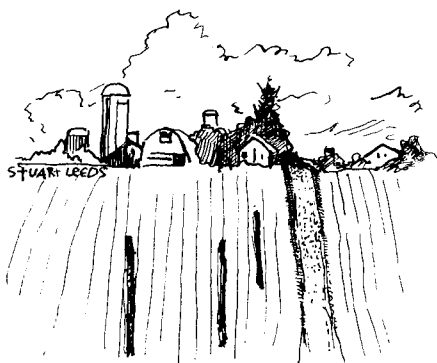
How, then, has it come to pass that federalism, for all intents and purposes, is dead? Berger deals only summarily with the most frequently cited culprit, the Fourteenth Amendment, pointing out that its legislative history does not sanction extensive intrusion into the states' reserved powers. He concentrates, instead, on the general-welfare and commerce clauses to trace the causes of federalism's demise.

In short, he finds that the constructions given both these clauses by modern courts are incompatible with the "original design" because they conduce to "unlimited federal power" without any allowances for the "inviolable domain" or residual "sovereignty" of the states. For instance, national authority since New Deal times has extended to matters that have only an "indirect" effect on interstate commerce, and, through the "scholastic reasoning" against which Justice Frankfurter inveighed, the Court has found scarcely any activity, no matter how local in nature, not to have some impact, no matter how remote, on interstate commerce. In this fashion, a national "police" power has emerged that intrudes upon the states' sovereign domain. To make matters worse, in

recent decades the Court has reversed the "burden of persuasion": It is now incumbent on the states to show that federal laws unconstitutionally curtail state powers, a task that is virtually impossible given the Court's expansive construction of national powers.

Berger realizes that most of what has been done cannot be undone; that "overruling decisions cannot restore the status quo ante." However, he does hold out the prospect that works such as this might eventually persuade the Court to mend its ways. It is his hope that, rather than simply ratifying whatever emerges from the political process, the Court will henceforth uphold the Constitution against further encroachment on the states by Congress. Only an amendment to the Constitution, he insists, can legitimize a further intrusion into the states' realm of sovereignty.

Berger's analysis and solution bring to mind Madison's observations in 1821 concerning the maintenance of the proper division of authority should Congress, "backed and even pushed on by a majority of their constituents," seek to encroach upon the states' legitimate domain. In such a case, Madison wrote, "nothing within the pale of the Constitution but sound arguments and conciliatory expostulation addressed both to Congress and to their constituents" would suffice to maintain the proper boundaries. Certainly Berger's book is a step in this direction. However, if Madison is right, there is a compelling need to go far beyond these constitutional considerations and to make a convincing case that honoring inviolable portions of state sovereignty will protect and advance the values and goals, such as liberty and justice, marked out in the Preamble of the Constitution. This is the case that remains to be made, if federalism is to be resurrected. □



## COURT HISTORIAN

Joseph Sobran

*The Court and the Constitution*, by Archibald Cox (Houghton Mifflin, 434 pp., \$19.95)

ARCHIBALD COX is intelligent, experienced, reasonable, fairminded, and wise. These virtues pervade his history of judicial review, *The Court and the Constitution*.

Cox knows the Court intimately. He was U.S. Solicitor General during the Kennedy-Johnson years. Felix Frankfurter called him "Archie." By an interesting irony, he reminds you, in his general approach, of Robert Bork, who of course fired him as Watergate special prosecutor, but whom Cox cites favorably in discussing the relation between law and community morality.

I don't mean that as an unqualified compliment to either Cox or Bork, although both deserve respect. Cox seems to me too much at home with the entire legacy of judicial review as we alas know it: He's a sort of conservative Whig who can live contentedly with what I (and most conservatives) regard as the Court's radical mistakes. His saving grace is that he understands the alternatives, and it isn't easy to argue with him.

Who now dares to contend that the Court was wrong in *Marbury*, right in *Lochner*, right again in *Plessy*, wrong in *Brown*? Cox generally likes the way things have shaped up, but he always presents the losing (or erstwhile winning) side with a historian's objectivity. He doesn't present the progressives as epic heroes. He also has serious doubts about the wisdom of the Court's abortion decisions, because they have inflamed, not settled, the issue. In his view, the Supreme Court shouldn't run too far ahead of the community, or act like "a body of Platonic guardians . . . without regard to the past or the long-run sentiment of the people."

Here, I suppose, is his credo:

The Court must know us better than we know ourselves. Its opinions may, in [certain] cases, be the voice of the spirit, reminding us of our better selves by voicing historic ideals instead of ratifying lesser practices. But while the opinions of the Court can help to shape our national understanding of ourselves,

the roots of its decisions must already be in the Nation. The aspirations put into legal form by the Court must be those the community is willing not only to avow but to live by. In such cases the legitimacy of the great strides forward rests on the Court's perception of this kind of common will and on the Court's ability, by expressing its perception in law, to command a genuine consensus.

Arguable, and debatable, but not doctrinaire.

Cox takes issue with Edwin Meese's "jurisprudence of original intent" on the grounds that the Framers didn't (and knew they couldn't) foresee all the "particular instances" to which their broad principles would be applied. This is a little like saying that the Framers didn't intend their own intent. What Meese and other conservatives are really saying is that the authors, the ratifiers, and generations of their successors had a common understanding of the real breadth of those principles, an understanding the modern Court's application has often flouted. Until the Court became an agent of a special agenda, nobody ever thought the Constitution forbade capital punishment (which the text explicitly presupposes), or made abortion a right.

Cox disagrees with the Court on abortion only on grounds of prudence: The country wasn't ready to follow. A better reason is that the Court was wrong. It overgeneralized an abstract right to privacy from particular rights (e.g., against unreasonable search and seizure), then derived another particular right (to abortion) from its own unwarranted extrapolation. That's just lousy reasoning. Surely the Framers would have said not that the Court had overextended their intent, but that it had entirely missed it. Cox offers no way of telling the difference, which is all Meese seeks. If the Court errs, it should be corrected; but first it has to be *possible* to correct it. Right now that isn't feasible, and the Court has taken ruthless advantage of the fact.

Cox is well aware that our real constitutional revolution, as Edward Corwin called it, occurred during the New Deal, not because the Court was "activist," but because it backed down in the face of a Democratic Congress and the threats of Franklin Roosevelt. Since then the Tenth

Amendment has been a dead letter; seldom if ever has the modern Court struck down a federal law on the grounds that Congress had exceeded its enumerated powers or usurped the powers reserved to the states. Cox recognizes that this was certainly a clear departure from the intent of the Framers (except for Alexander Hamilton, maybe), but he regards it as an inevitable and therefore acceptable change. He terms the Court's behavior in this period the "high-water mark [of] judicial restraint."

Without exactly meaning to, he calls our attention to a pattern that the word "activist" has half obscured. Since 1938, the Supreme Court has rarely struck down liberal federal legislation that has no constitutional authority, while it has frequently struck down conservative state legislation formerly protected by the Tenth Amendment. Actively and passively, the Court has done its part to invert the original federal structure.

If we can't adhere fully to the original plan, can't there at least be some limit to how radically we depart from it? On Cox's showing, unfortunately, there isn't. □

## SCHOLASTICISM AND THE FREE MARKET

Tom Bethell

*Christians for Freedom*, by Alejandro A. Chafuen (Ignatius Press, 207 pp., \$12.95)

**A**LEJANDRO CHAFUEN provides us with valuable new information about the economic views of the late scholastic thinkers, many of them Spanish and early Jesuits (the order was founded in 1540). An Argentinian Catholic who studied under Dr. Hans Sennholz at Grove City College, and is now with the Atlas Economic Research Foundation, Chafuen concludes that the late scholastics were more inclined toward the free market than we have hitherto been led to suppose. In view of recent episcopal ruminations, decidedly socialistic in nature, this is good news and worth a closer look.

First, what do we mean by "free market"? The phrase describes a society in which *contract* is the dominant relationship. But contract is feasible only if private property rights are

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## RANDOM NOTES

□ SOME SEPTEMBER TITLES: In *Fall out of Heaven: An Autobiographical Journey* (Peregrine Smith, \$17.95), Alan Cheuse, the son of a well-known Bolshevik pilot who defected from the Soviet Union after his experimental fighter plane crashed in the Sea of Japan, explores his own childhood in Perth Amboy, New Jersey, and his embittered relationship with his father (whom he regarded as a hero and who took a job in a car assembly plant), as well as with his ancestral country, which he visited with his son in 1986.

*A Soldier's Disgrace* (Yankee, \$15.95), by Don J. Snyder, is a defense of the late U.S. Army Major Ronald Alley, who survived three years in a North Korean prison camp and was charged, upon his return to the United States, with collaboration. In due course, he became the first American officer in the twentieth century to be dishonorably discharged and remanded to military prison. Snyder, a novelist, acting with Alley's widow, persuaded the Army Board

of Correction of Military Records to reopen the case; to their dismay, the Board found the original verdict "manifestly correct."

In *Maria: Callas Remembered* (Dutton, \$19.95), Nadia Stancioff, a publicist who met Maria Callas in 1969 when she was working on the film version of *Medea*, emphasizes the private, often tormented woman over the regal diva. . . . *Gershwin* (Doubleday, \$21.95), by Edward Jablonski, looks to be an interesting biography of the romantic (and popular) American composer who confessed himself to be "a man without traditions."

*Thomas Merton, Brother Monk: The Quest for True Freedom* (Harper & Row, \$15.95), by M. Basil Pennington, is a highly adulatory biography of the charismatic convert by a fellow Trappist.

□ LEFT OVER FROM AUGUST: In *Earth and Other Ethics* (Harper & Row, \$19.95), Christopher D. Stone considers the legal status of "nonpersons"—e.g., rivers, forests, animals, etc.—while conceding that such considerations do not confer upon their subjects legal rights. —CW

widespread (you can contract to exchange something only if you own it in the first place). Private property was defended by St. Thomas Aquinas, using Aristotle's arguments. Private ownership, said Aquinas, resulted in property that was better cared for, led to more harmonious living, and ensured that people would be responsible for their own actions (and not others'). The late scholastics extended the arguments for private ownership, noting for example that when things are held in common the unscrupulous are free to "take more from the barn and put less into it," in Chafuen's paraphrase. Collectivist incentives are such as to reward greed, idleness, and domineering behavior.

The problem arises when we come to price. Unless individuals are free to set their own prices, private property is precarious. Indeed, you cannot be said to own something if another can tell you at what price it must be sold. (Ask rental-property owners in New York City.) Thus, arguing for both private property and "just prices" is inconsistent. Yet we do find Aquinas supporting both in the *Summa Theologica*.

Chafuen imputes contractarian views to Aquinas, quoting him as saying that "any exchange is for the mutual benefit of both parties with the result

that they are better off than previously." But I cannot find this quotation at the cited reference. True, Aquinas did struggle with the question whether it was licit to buy at one price and sell at another, eventually concluding that it was—*provided* "some necessary and worthy purpose," not profit, was "the ultimate aim."

This in itself undermined the notion of just price, as Aquinas recognized. ("A commercial trader who does business by selling something for more than he himself paid must either have bought it for less than it is worth or be selling it for more.") But he also recognized that if buying at one price and selling at another were disallowed, most commerce would be impossible. At the same time, he still wanted to believe that the value of things was somehow "absolute," and that it was therefore "contrary to justice to sell something for more than it is worth or to buy it for less." In the end he seems to have left these contradictions unresolved and moved on to other, less relativistic topics.

With the late scholastics, there is a definite evolution in Catholic thought. Chafuen quotes the Jesuit Luis de Mo-

lina (1535-1600) as saying: "The just price of goods is not fixed according to the utility given them by man. . . . It depends on the relative appreciation which each man has for the use of the good." Molina comes close to saying that just prices are "market" prices, or compromises: agreements between buyer and seller.

"Consider the exchange of a book," wrote Francisco García, a late-sixteenth-century Dominican. "For one it is of great value and price; for another it is of low value and for others its value is nil. And the same thing happens with all products."

As one reads through this fascinating collection of quotations—on such topics as government finance, the theory of money, interest and banking, in addition to property and prices—it becomes clear that the late scholastics thought long and hard about these matters and were moving toward the position that there can be no economic justice without liberty and consent—that is, without freedom of contract available to all.

Why, then, did capitalism develop more rapidly in Protestant countries? Chafuen speculates that "after the French Revolution, large numbers of intellectuals rejected faith. At the same time, many of the faithful rejected reason. Might the rivalry between the Church and the 'liberals' have arisen from these diametrically opposed positions?" Maybe. The American Catholic bishops have surely substituted faith for reason in their latest letter on the economy. What is curious is that collectivism, not Christianity, is their faith.

"Of few books can it be said that they open our eyes to new bodies of material and to an important revision of long-held views," Michael Novak writes in a foreword. "This short study by Dr. Chafuen is such a book." For too long we have been mulling over the same old material and fruitlessly exploring the Calvinist work ethic. Chafuen shows us that Catholics worked out the moral basis of free exchange more than four hundred years ago. Then something happened (the French Revolution?) and many of them forgot what they had long ago learned. □



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## GUERRILLAS IN THE BUSH

Jeffrey Meyers

*The Great War in Africa: 1914-1918, by  
Byron Farwell (Norton, 382 pp., \$18.95)*

**B**YRON FARWELL, author of a fine biography of the adventurer Sir Richard Burton, has not done original research on this subject. But he has produced a readable popular history of the British-German battles in four remote theaters of war: Togoland and the Cameroons in West Africa, German South-West Africa, and German East Africa (now Tanzania).

The country was extremely beautiful and unhealthy—Farwell has an excellent chapter on the tropical diseases that decimated the armies—and soldiers were often attacked by swarms of bees and by wild animals as well as by the enemy. The British always outnumbered the Germans and could draw on reserves from their colonies; and the war was fought in a gentlemanly and often amateurish way. Black Africans, integrated into the German *Schutzgruppen*, mostly made better soldiers than Indians or Europeans.

Both Togoland and the Cameroons were wedged between British and French colonies. The first shot against Germany in the entire Great War and the first occupation of German territory took place in Togoland, which had the shortest and least bloody of the African wars. Farwell covers this in seven pages. The Cameroons were so insalubrious that a young man posted there, “who asked if his return passage would be paid, was informed that the question had never arisen.” The first Victoria Cross in Africa was won by a lieutenant who swam “the swift, unfordable Nkam River under hostile fire to reconnoiter singlehanded the enemy’s dispositions and numbers.” Intense jealousy marked the Anglo-French alliance, but a hostile naval base and radio station were destroyed, and in January 1916 the Cameroons surrendered. The British and French divided the colony between them.

Farwell does not explain why Jan Smuts and Louis Botha (the first prime minister to lead his men in battle), who had fought the British in the Boer War, “were converted from the bitterest enemies of the British

Empire into that Empire’s staunchest adherents.” The war in German South-West Africa was fought by the army of the Union of South Africa. It suppressed a rebellion of its own people and in July 1915, after suffering only 529 casualties, won an unconditional surrender.

The last two-thirds of the book concerns the campaign in German East Africa. As late as January 1915 the governor of British East Africa (now Kenya) declared: “This colony has no interest in the present war.” But he was soon forced to face reality by the brilliant guerrilla leader Paul von Lettow-Vorbeck, whose successful invasion made him the only German commander in the Great War to occupy British territory. His strategy was to delay inevitable defeat and prolong the conflict as long as possible.

The battles often resembled trench warfare, and one soldier wrote: “We lay there in the mud and retched from the stench of dead animals and watched the rats crawl over us.” But Farwell makes the most of the bizarre aspects of the campaigns. The intense heat warped the wooden propellers of the airplanes and melted the glue that held them together. The blockade and battle in the Rifi delta, which lasted 255 days, was the most protracted naval engagement in history. The longest sustained flight in history was made by a Zeppelin that was airborne for 95 hours and meandered 4,220 miles from Bulgaria to Egypt and back without ever reaching its destination. The arduous transport of two large motorboats from Capetown through the Congo to Lake Tanganyika led to the capture of a German warship.

After initially beating the British at the coastal town of Tanga, “one of the most notable failures in British military history,” Lettow-Vorbeck remained undefeated in the field. The British captured all the railways, ports, and towns, yet the campaign dragged on as he retreated south into Mozambique and then circled back into German territory. After praising Lettow-Vorbeck’s bravery, endurance, and courtesy, Farwell fatuously concludes: “His splendid military virtues were devoted to an unworthy cause and his loyalty given to a bad monarch.”

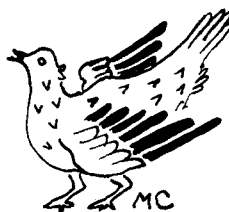
Farwell is weak on the historical

background of the war. He mentions the Maji Maji rebellion of 1905 (which Hemingway’s hero wrote about in *The Garden of Eden*), but does not explain why there was no major African revolt on either side during the war or why African *askaris* fought and died for foreign imperialists. A general description of the campaigns at the beginning of the book would have clarified the significance of the small but vicious fights, the pincer movements that failed to pinch, deep in the bush.

There are more than twenty typographical errors, and the snapshots are poor. Farwell confusingly calls the Farnham biplanes

“Farman” and “Farham.” He first states the *Helmuth* exploded, leaving survivors in the water, and then announces it arrived to sweep mines. Ignoring the Bavarian Alps, he claims that Mount Kilimanjaro was included in German territory because the Kaiser “had no other snow-capped peak in his realm.”

Farwell does not seem to know that the novelist Joyce Cary fought in and wrote about the Cameroon campaign. And he does not appreciate the impressive character of Bror von Blixen (the syphilitic husband of the writer Isak Dinesen) and of Richard Meinertzhagen (“too clever by half”) who later fought with Lawrence in Arabia. A comparison of the African and Arabian wars, and of the guerrilla tactics of Lettow-Vorbeck and Lawrence, would have been extremely illuminating. □



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## THIS LITTLE WORLD

Robert Royal

*The Enigma of Arrival, A Novel, by  
V. S. Naipaul (Random, 354 pp., \$17.95)*

**H**ISTORY AND the discontinuities of history lie heavily on the landscape in this book. Set in a rich Wiltshire farming valley, only walking distance from Salisbury Plain with its barrows and tumuli and remains of Stonehenge, the story begins with long observations of the local flora, which are as branching and organic as the vegetal life they describe. Little by little, and layer by layer, the accumulat-

ed natural and human effects on the land emerge, as do—even more slowly—the lives of the current inhabitants. At first, all this seems a mere evocation of sentimental and literary associations. But soon we are led by the narrator past surface illusions into a profound experience of modernity.

Though subtitled "A Novel," the narrator's story is to all appearances a memoir of Naipaul's life. He lives for ten years in a rented Wiltshire cottage, but was born in Trinidad of an Indian family. In spite of the twenty years he had previously spent in England, he arrives in Wiltshire a man lost, cut off from his background, and somewhat disoriented by the land in which he had made his life.

Only an author of Naipaul's mastery could craft so moving and so simply beautiful a "novel" out of such apparently humble materials. The traditional trappings of plot, development of characters, and so forth are for the most part absent. How the story unfolds is not easy to explain. More than a linear unfolding, it amounts to a deepening and powerful *seeing*, with love and a kind of piety, of the time and country in which the narrator has lived.

In the quiet of Wiltshire, which he initially perceives in terms as traditionally bucolic as a painting by Constable, he begins to reflect on his relationship to England. He finds among the books of the former tenant some art reproductions and is suddenly moved by Giorgio de Chirico's *The Enigma of Arrival*. The painting depicts a stylized Mediterranean scene in which two people pass one another in an otherwise empty square. The sail of a ship protrudes over the wall at the back of the square. In a flash, the narrator is given the inspiration for a novel about a man who arrives in a classical city on some mission that

would give him encounters and adventures. He would enter interiors, of houses and temples. Gradually there would come to him a feeling that he was getting nowhere; he would lose his sense of mission; he would begin to know only that he was lost. His feeling of adventure would give way to panic. He would want to escape.

This traveler makes his way back to

the dock where he arrived and hopes to return home: "Only one thing is missing now. Above the cutout walls and buildings there is no mast, no sail. The antique ship has gone. The traveler has lived out his life."

Without much explicit reference to this intuition of his predicament, Naipaul recounts his journey, as a 17-year-old would-be writer, to London in 1950. His knowledge of England then was entirely from books and he naturally misread much of what he discovered on arrival. As his career as a writer prospered, he began to explore Africa, India, and the London records of his native Trinidad, but he had not yet fully understood the shift that had occurred in England after World War II, or his relationship to it.

In his Wiltshire cottage twenty years later, he begins to notice a variety of signs of the decline of Britain. His landlord, whom he never meets directly in all this time, is the son of a once prosperous family, last of the line and content to allow the grounds of the estate to decay in order to afford to continue living there. Earning the upkeep by work or investment seems out of the question. Soon the whole place will have to be sold off and converted into a school or hospital. The help and the neighbors, Naipaul thinks initially, at least preserve some of the old authentic England of his boyhood reading. But he gradually learns that they have been as influenced by modern life as has his landlord.

Even in this leafy valley, there is no authentically traditional community left. The few farmers are not longtime inhabitants of Wiltshire, and the brief industrialization of a dairy farm—it quickly goes bankrupt—leads to further inroads on the remaining traces of pre-modern life. Many of the young people, Naipaul observes, care more for their cars than for anything else, and are essentially just as rootless as their city counterparts. To his surprise, they seem ready at any moment to move to another area and another job, confident that a series of jobs will always be open.

The book recounts the writer's growing reconciliation and contentment with this dying glory and with his separation from his origins. Oddly, the sharp-

est impulse toward this reconciliation comes at his sister's death. At the perfunctory Hindu funeral in Trinidad, he is moved to a profound description of how the whole family had traveled respectfully but irrevocably away from its Hindu roots to "self-awareness": "There was no ship of antique shape," he says, "to take us back." And with an unusual note of *pietas*, he captures the melancholy of modernity: "Our sacred world had vanished. Every generation was now to take us further away from those sanctities. But we remade the world for ourselves; every generation does that, as we found when we came together for the death of this sister and felt the need to honor and remember."

This book, an expression of that paradoxical *pietas*, was written rapidly, soon after the sister's death, and is unique in the depth of its response and the lyrical richness of its language in re-creating the way we all live now. □

## UNCLES, AUNTS, AND OTHER BLISTERS

Helle Bering-Jensen

*In Search of Blandings: An Investigation into the Sources That Inspired P. G. Wodehouse, by N. T. P. Murphy (Salem House, 256 pp., \$18.95)*

CERTAIN WRITERS invariably provoke strong reactions in their readers; P. G. Wodehouse is a case in point. Evelyn Waugh, for example, habitually referred to Wodehouse as "The Master," never ceasing to admire Wodehouse's capacity for comic linguistic invention. The opposite response—centering on the perceived triviality and negligible social content of Wodehouse's novels—is well represented by Sean O'Casey, who tried to insult Wodehouse by calling him "English literature's performing flea." (The insult misfired: It was gleefully adopted by Wodehouse in 1953 as the title for a collection of his letters.) Robert Graves is among the few who have refrained from comment. In *Good-bye to All That*, he reveals that Wodehouse and Percival Graves, the poet's elder brother, had been friends and that Wodehouse had once given the young Robert twopence to buy marsh-

mallows. Therefore, Graves felt honor-bound not to criticize his novels.

Still, all generally agree upon one point: Not once in Wodehouse's ninety-odd novels is the world of reality allowed to intrude upon the gentle comedy of manners as it plays itself out in the warm glow of Edwardian summer afternoons. This was a view that Wodehouse himself liked to promote. "I go off the rails unless I stay all the time in a sort of artificial world of my own creation," he wrote to his friend Bill Townend in 1935. "A real character in one of my books sticks out like a sore thumb."

This truism has now received a serious challenge from Norman Murphy, a retired lieutenant colonel in the British army turned literary detective. Armed with an encyclopedic knowledge of Wodehouse's copious *œuvre* and with the tenacity of one of those bailiffs who used to dog the impecunious young men of the Drones Club, Murphy has pursued Wodehouse into the recesses of his childhood and youth. There he has found plausible originals for many of the characters, as well as scores of buildings, animals, names, and incidents that inspired the creation of the Wodehouse world.

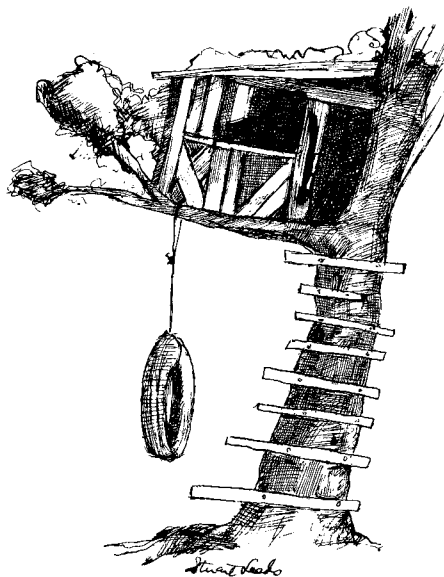
Take aunts, for example. "There are dozens of aunts you've not heard of yet," says Monty Bodkin in *Heavy Weather*, "far-flung aunts scattered all over England, and each the leading blister of her particular county. It's a sort of family taint." In the Bertie Wooster stories, the mere sound of names like Aunt Agatha and Aunt Dahlia makes grown men tremble. Why this amitaphobia (fear of aunts)? Well, Norman Murphy has unearthed no fewer than twenty Wodehouse aunts and 15 uncles, some of whom provided little Pelham Grenville with a home during the long years of his father's colonial civil service. "No matter how the world applauds you," Murphy comments, "there is always somebody shaking their head and saying what a pity it all is. In Wodehouse's case it was his aunts."

Even Blandings, which has gone down in literary history as a place of almost mythical renown, rather like 221B Baker Street or Brideshead, turns out to have a basis in fact. In the stories, it is an Arcadia where pigs are sacred, uncles rich, aunts imperious, and young ladies clever, beautiful, and inflexibly bent on marriage.

Wodehouse's description of the place is irresistible: "Blandings Castle slept in the sunshine. Dancing little ripples of heat-mist played across its smooth lawns and stone-flagged terraces. The air was full of the lulling drone of insects. It was that gracious hour of a summer afternoon, midway between luncheon and tea, when Nature seems to unbutton its waistcoat and put up its feet." Blandings, Murphy argues, was inspired by three actual great houses, and he even provides directions, of military precision, for the adventurous fan who wants to trace the Wodehousean footsteps.

In short, Murphy concludes, Wodehouse wisely wrote only of what he knew from first-hand experience, faithful to his memories of a golden moment in history—"To me the years between 1890 and 1900 seem like heaven," Wodehouse once remarked. It is nice to think, as Murphy writes, that "there was a time when people behaved as Wodehouse drew them. . . . There was a time when every peer of the realm seemed to be marrying chorus girls or Americans."

Nowhere is this argument better illustrated than in Murphy's chapter on the Pelican Club, a redoubtable late-nineteenth-century establishment whose members seem to have had just as indecent an amount of fun as their literary reflections in the Drones. Here paintings and rugs were nailed to the walls and floors to prevent creditors from carrying them off. Guests included bookies, pugilists, and Gaiety Girls, as well as Buffalo Bill with his red Indians. And members included such de-



termined eccentrics as the famous Lord Lonsdale, who smoked £3,000 worth of cigars a year, owned 28 cars, and once explored the North Pole, which he always insisted was bright pink. This is the world of Bertie Wooster, Boko Fittleworth, Gussie Fink-Nottle, Bingo Little, and Freddie Threepwood, all of them Etonians ("Dracula? Never met him. Must be a Harrow man").

After placing Bertie Wooster in his proper setting, Murphy also provides him with a pedigree, and a singularly appropriate one at that. The main source of inspiration for Bertie seems to have been the actor George Grossmith, who made his name in such notable roles as Lord Percy Pimpleton and the Honorable Augustus Fitzpoop. Furthermore, his grandfather had helped found the Savage Club, the model for Dickens's Pickwick Club, and had been the original Mr. Pickwick. So we seem to owe to the Grossmith family half of two of English literature's most celebrated master-servant comedy teams, Pickwick and Sam Weller, Bertie Wooster and Jeeves.

Obviously there is some of P. G. Wodehouse himself in Bertie, too, in particular the benevolent, innocent approach to the world. "Picture to yourself," Wodehouse writes of his tender years, "a Trappist monk with large feet and a tendency to upset tables with priceless china on them, and you will have the young Wodehouse."

It was this appealing otherworldliness, however, that got Wodehouse into such trouble during World War II. After a fairly mild experience of internment in France and Belgium—Wodehouse wrote *Money in the Bank* while a German prisoner—he made five humorous broadcasts from Berlin in 1941, mainly to reassure his friends that he was all right. In the isolation of the camp, Wodehouse had heard nothing of the Blitz and was totally unprepared for the outrage this caused in England. Few had actually heard the talks, but most assumed he had turned Nazi propagandist, like Lord Haw-Haw. Later a House of Commons inquiry concluded that there was no case against Wodehouse, and sensible people like George Orwell exonerated him. Still, the episode left a deep scar, and Wodehouse never again returned to England, making his home on Long Island, where he died in 1975, busily at work on his 97th novel—*Sunset at Blandings*. □

## LOOKING BACK

### LEGALITY, LEGITIMACY, AND CARL SCHMITT

Paul Gottfried

ON APRIL 7, 1985, the death of Carl Schmitt, at age 97, brought to an end the longest and stormiest career in the history of political thought. Schmitt's hero, Thomas Hobbes (1588-1679), another explicit political realist, would probably place second among long-lived theorists of the state. Attacked for his belittling comments about the Weimar Republic and for his initial support of the Nazis in power, Schmitt spent the postwar years in semi-official disgrace. The West German government and most of the postwar German press studiously ignored a figure once called "Hitler's Crown Jurist." Released from American detention after the war, Schmitt went into permanent retirement at Plettenberg, the Rhenish village of his birth. There he received mostly foreign visitors, such as his French commentator, Julien Freund, his later American biographer, J. W. Bendersky, and a new generation of devotees from Latin Europe.

Germans were understandably more reluctant to recognize Schmitt, despite his pre-eminent standing among European political thinkers. Embarrassed by their recent past, they pretended that this celebrity of the Weimar period (to whom Leo Strauss devoted one of his earliest writings) had already departed, together with the Nazis he had briefly endorsed. Not until October 1986 did German academics call a conference, at Speyer, to discuss Schmitt's achievements. These included 43 books and several hundred articles, which had inspired hundreds of dissertations in the last decade alone.

Has Schmitt found a foothold in America? Joseph W. Bendersky wrote an exhaustive biography of him, published by Princeton University Press in 1983. In 1985 MIT Press put out translations of two of his works, *The Crisis of Parliamentary Democracy* and *Political Theology: Four Chapters on the Concept of Sovereignty*; last year MIT published *Political Romanticism*. If truth be told, none of the English

editions has sold well. The publicity editor at MIT Press told me with obvious chagrin that all the Schmitt translations have yielded only 1,500 sales. Writings by Jurgen Habermas and other members of the neo-Marxist Frankfurt School featured in the same series, *Studies in Contemporary Social Thought*, have enjoyed far more success. Utopian Marxists simply sell better in this country than self-described conservative realists.

In Europe, however, Schmitt still draws attention and raises hackles. Right after his death, *Die Welt*, *Die Zeit*, and other German newspapers both Right and Left charged him with being a proto-fascist, "closer to power than to justice." Writing in *Encounter*, the Swiss journalist François Bondy insisted the Nazis "were only too pleased to be able to exploit theories of identity between *Führer* and *Volk*;" to echo his [Schmitt's] thesis that robust legitimacy took priority over pale and empty legality; and to accept the friend/foe political dichotomy which sent them off on a total search for total enemies."

The charges Bondy raises are perhaps more serious than the attempts to link Schmitt to the Nazi regime. As his defenders, including Freund (a Gaullist of Jewish descent), have stressed, Schmitt quickly lost favor with the Nazis, whose revolutionary racist ideology clashed with his own traditional authoritarian concept of the state. The fact that Schmitt denounced the Weimar Republic in the early Thirties for not resisting Nazi violence effectively enough also made him unwelcome to Nazi theorists. Through most of the Third Reich he lived under a cloud of suspicion, where he remained unalterably after 1945.

Despite the accusatory tone, Bondy is correct about the thrust of Schmitt's demystification of politics. Although

he quotes admiringly from Catholic traditionalists of the Latin South, like Aquinas, Donoso-Cortés, and the Spanish Jesuit Suarez, Schmitt follows more closely two students of power politics, Machiavelli and Hobbes. Like them he sees the world as a jungle in which the shrewd and bold are destined to rule. Like other lapsed Catholics who continued to hate the Left, Schmitt valued community above individual liberty. He taught that hierarchy, not equality, is natural to the human condition. He repeatedly asserted that governments that rest on mere legality cannot protect themselves either at home or abroad.

Though remembered and sometimes ridiculed for citing "exceptional circumstances" as the test of liberal democracy, Schmitt believed that democracy would destroy the state from within, even if there were no sudden catastrophe. Parliamentary and pluralistic democracy was preoccupied with balancing the interests and settling the grievances of contesting parties and strident minorities. The liberal democracies analyzed by Schmitt made themselves contemptible by currying favor. Ironically, they aroused revulsion and fear of despotism in proportion to their efforts to be acceptable to everyone. As Schmitt presciently observed: "A pluralist state run by parties becomes a total state not by its effectiveness but by its weakness. It intervenes in every aspect of life because one expects it to satisfy the rising demands of all claimants."

The political entity being discussed lacked the cohesion characteristic of established national communities. Moreover, it was incapable of adapting itself to the state system that had existed in Europe since the early modern period. Without a sustained diplomacy and a continuing awareness of political enemies (as opposed to counter-litigants or competing party coalitions), modern democracies ceased to be recognizable as states. In most cases, they could not defend themselves against adversaries foreign or domestic (being unable or unwilling to distinguish friend from foe), or else they turned all international struggles into ideological contests. This second course endangered sovereign states. It represented an attempt at hegemony by people who pursued globalist dreams instead of limited national interests.

Significantly, Schmitt identified this



expansionist tendency with American democracy, while seeing political impotence as the mark of European parliamentary government. His observations on American hegemony have given him vogue among Marxists, particularly in Italy. Always ready to stick it to the Americans while deploring the corruptness of bourgeois parliamentarians, Marxists have been less hesitant to draw on Schmitt than have many European and American conservatives.

Even among his qualified defenders (among whom I number myself), it is often wrongly assumed that he is addressing the problems of a strictly non-Anglo-American culture. Despite his undiminished popularity in Latin countries, Schmitt is now increasingly relevant for America. No less than James Burnham, Schmitt underlined the self-destructive tendencies of modern democratic societies, both their globalist illusions and their inner fragmentation. He also saw that these

two traits can operate interchangeably in the absence of genuine community. Faced by a Congress that cannot tell friend from foe, sincere patriots who invoke universalist rhetoric when they should speak of national survival, and a "gay community" whose sensitivities the media urges us to protect even as we try to battle AIDS, Americans should be taking Schmitt seriously. Here was a thinker who recognized the fatal tendency of modern democracy to confuse legality and legitimacy.

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## THE RIGHT BOOKS / CHILTON WILLIAMSON JR.

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**A**S IF THE approach of the presidential election year were not depressing enough, we have as well the (related) approach of yet another era of détente: a renewal of the "spirit of Geneva" and the gigantic fraud called "arms control." Yet the tragic fact is that the West—as always—has nothing to gain, and everything to lose. "It is the Soviets," Vladimir Bukovsky writes, "who need détente most desperately. Yet it is the West who is going to pay for it, saving in the process the bankrupt Communist system. We are going to witness a repetition of the same mistakes a second time within a single decade . . . only because the West has no defense against Soviet psychological warfare. . . . What is the difference, then, between Reagan and Carter?"

*Mesmerized by the Bear: The Soviet Strategy of Deception* (Dodd, Mead, \$22.95), edited by Raymond S. Sleeper and in which the above-quoted remarks by Mr. Bukovsky appear, is a trenchant, admirably unrestrained critique of the current Western appeasement, by a roster of distinguished writers including David S. Sullivan, Sam Cohen, William R. Van Cleave, William R. Kintner, Ambassador Paul H. Nitze, James E. Oberg, and William Fletcher; Congressman Jack Kemp provides the introduction:

Over the past seventy years, the United States has sought to live peacefully and cooperatively with the Soviet Union. Shortly after the Bolshevik Revolution, the United States provided the new USSR with massive economic and agricultural aid. . . . Later, during [*sic*] World War II, the Allied powers, true to their peaceful motives, demobilized their military forces. . . . The Soviets' re-

sponse has been to mock American good will. . . . The United States extended to the Soviets the very first olive branch in the field of disarmament: the Baruch Plan, which offered international control over atomic energy and weaponry, though we had a nuclear monopoly at the time. The Soviets flatly rejected the American offer and launched a cynical propaganda campaign for "disarmament." . . . In the 1970s the United States pursued a détente policy, trying yet again to achieve normal relations with the Soviet Union. . . . once again aid flowed from the West into Soviet-bloc countries. The Soviet response, as before, was to capitalize on the opportunity to expand their military machine, subvert the governments of numerous Third World nations, sponsor revolutions, and subject millions of innocent people to Communist oppression. The policy of the United States has been a continuing and repeated sequence of hopes, followed by disappointment and disillusionment, and then, by a return to those original hopes.

What is wrong emerges starkly from the 19 pieces (including a poem by Rudyard Kipling) that follow Mr. Kemp's introduction. Foremost, the Soviet Union does not want peace (or rather, as Ambassador Nitze explains, its concept of peace—"mir"—differs from the Western notion, by looking forward to the peace that is to follow the international triumph of the proletariat—that is to say, the peace of the grave); while the West refuses to acknowledge the implacable hostility of the Soviet Communist Party. According to Bukovsky, "The most important reason for Soviet success is the reluctance of the Western public . . . to recognize the source of the threat." Each time the Party produces a successor to the previous thug to com-

mand the helm, the Western media succumb in rapturous fits, finding that the new thug is actually a "closet liberal." But, while autocracies vanish with the death of autocrats, the Communist system continues: "It is a machine that makes human characteristics irrelevant. Everyone in the Soviet Union is a 'closet liberal,' but they cannot come into the open."

In "Soviet Deception in Arms Control," David S. Sullivan shows what the U.S. has lost to the USSR in 16 years of "arms control." In "Soviet Deception in Nuclear Weapons Deployment," Sam Cohen demonstrates how little we really know of the extent of the Soviet nuclear arsenal. In "Soviet Strategic Nuclear Forces, Goals, Deception and Surprise," William Van Cleave suggests the grisly eventualities that might result from the Soviets' superiority in arms and our own ignorance of it. In "The Treaty Trap," William Kintner examines the American infatuation with legalistic mechanisms of defense, and sketches the lethal inadequacies of such naïveté. In "Soviet Strategic Deception," Joseph D. Douglass Jr. describes how the Soviet leadership makes use of the millions of willing idiots in the West to advance its strategic designs.

The truth is, arms control *is* a fraud, validated by Western politicians whose egos have tricked them into thinking they can be "peace Presidents" and who lack the nerve to buck the peace mystique by calling a spade a spade. For as long as the Soviet Union remains the Soviet Union, security lies, for the West, in *refusing to treat with the Kremlin at all* on matters of arms spending, arms development, and the hangman's rope. □

Our own government, even more than that inter-war German one Schmitt found defective, makes the mistake of seeking respect by passing laws for every human predicament and contingency. This quest for legalistic totality must and does infringe on established patterns of communal life. It is also producing a decayed regime that claims to protect everything, but fails to safeguard even life and property. For all his reckless overstatement (which, alas, Bondy needlessly exaggerates), one may say about Schmitt what he often said about Hobbes: "*Magister, frustra non iam doces!*"—"Master, you still do not teach in vain!" □

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## THE GIMLET EYE

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### SCALPING

**D. Keith Mano**

*Hal (not his real name) is black, non-descript, and 31. When I met him outside Yankee Stadium, he wore a torn Steeler T-shirt and jeans. Hal is the quintessential exponent of free-market economics. Or, as the legal system would have it, black-market economics. Reluctant to speak at first, Hal soon became almost voluble. Throughout our conversation he was on the lookout for police—uniformed and undercover. Hal enjoys his trade. He should: it's a sweet gig.*

IT'S LIKE investin' in the stock market. All depends on how good the game gonna be. Also the weather plays a big part. I eat tickets at least two times a week. On a night like this people got extra—I only buy good seats. For baseball, on a Sunday you can sell two hundred tickets easy. Most of the time when I buy seats in advance, I sell 'em over the phone to my regular customers. Building up a clientele is important. You get ten customers that go to forty games a year. You figure you charge them \$30 a ticket—that's \$12,000 a year right there.

Sure, it's illegal in New York. [It isn't in New Jersey or Nevada.] You can sell a ticket for a \$2 profit or 20 per cent. Go over that and you're breaking the law. They see you selling tickets, they give you a summons.

There's no immunity out here. Judge can charge you anywhere from \$25 to \$250. It averages about \$50. Last time the judge said to me, "You been in my court 75 times, I fine you \$75."

See that grey-headed guy over there—he's an undercover cop. I known him 15 years. He's not a bad guy. We call him Bag Full of Tricks. Sure I know what he looks like, he ain't undercover to me, but you get two, three hundred people walkin' past here, you stop someone to sell him a ticket, Tricks can wriggle right through the crowd and get you. Once that flow of people come, he's got his cover again. I get along with the younger cops better—sometimes we have a beer together. Maybe once or twice a year they'll bust me, because they superior says, Go get that guy.

I remember like in 1977 when the Yankees go to the World Series, I was gettin' \$200 and \$300 a ticket. I caught one guy from Mexico, he wanted fifty seats for each game—I walked away with \$32,000 and not one ticket was mine. This guy runs an excursion from Mexico, he come up every year no matter where the World Series is, so I meet him all over the country. Hell, I go to California. The World Series is ultimate.

But if you don't know what you're doin', you can lose a lot of money in this business. To put up \$2,000 for one event is not unusual. Say you go to the box office, ticket says \$10—but no way he gonna sell one guy no one hundred tickets. So you gotta pay \$12.50, you gotta grease they palms. People look at your ticket say, "It only cost you \$10," but I paid \$12.50. Everything's not cotton candy.

On a rock concert you make more money than anything else. Those kids, they parents give them \$200 and tell them to get out of here. Kids'll pay anything for a rock-concert ticket. Kid'll say, "Let me go in the concert. When I come out you can kill me." They say that. Some times your cash can get really tied up, though, so you don't want to look for no investment over a long period of time. But for a rock concert you don't mind puttin' your money up two months ahead of time, because maybe two weeks after you bought the seats, they all gone. You make more money sellin' 'em earlier. Day of the event, might be worth only \$20.

I started scalpin' when I was 16

years old, I used to sell souvenirs around here. They's 14 guys here, kids I grew up with, all scalpin'. Some of us have jobs, some do it on a part-time basis. For me, this is it. When I tell the kids, "Daddy goin' to work," they know where Daddy goin'. On the average I make about \$3,000 a month tax free. Got enough to buy me a co-op right up on Grand Concourse. The kids go to private school. It's not easy. Your heart gotta be in it—otherwise you're not goin' to be successful out here.

Your greatest asset is your sales pitch, you know, 'cause anybody can't do this. It's like sellin' a car. And you definitely gotta get a reputation if you want guys to buy again. You try to be faithful, 'cept when you get stuck with some tickets, you do seem to lie a bit. You need to know human nature. You lookit someone and say, "Well, this guy ain't spendin' no money, I ain't stoppin' him." Let me tell you I wouldn't have no other job in the world. I love this. I really love what I do.

*I gave Hal \$20. My seat was excellent: behind third base, eight rows back. Indeed I wouldn't have come uptown at all had I not known that some scalper or other would serve me well. I have a crazy schedule, I can't buy in advance. The man sitting beside me had sold my ticket to Hal for \$7.50 (a corporate box he couldn't use). He was happy. I was happy. Hal, with a \$12.50 profit, was happiest. This transaction, which pleased everyone, had been illegal, of course. The law is an idiot. Again.* □

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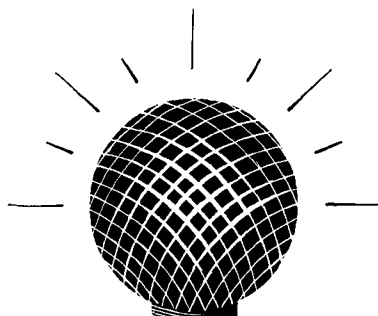
## BOOKS IN BRIEF

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*Cardinal Manning*, by Robert Gray (St. Martin's, 366 pp., \$20)

ROBERT GRAY's biography of Cardinal Manning attempts to restore the reputation of a great man. At the time of his death Manning was highly esteemed both among Catholics and in English public life. His memory, however, suffered considerably at the hands of a biographer anxious to portray him as a power-hungry hypocrite. Although the portrait is clearly a caricature, its effect has been lasting. Mr. Gray sees Manning as a much more

# 'We interrupt this magazine to bring you a special announcement...'



... and we'll keep it brief—the facts alone should convince you to act. Wm. F. Buckley Jr.'s *Firing Line* has celebrated its 20th Anniversary. This Emmy Award-winning "talk show" is not only one of the longest continuous TV programs but the *only* one to feature such an amazing variety of guests, from world leaders to "ordinary" Americans like a young Marine fresh from Vietnam (he's now Colonel Oliver North). Critic Cleveland Amory (in *TV Guide*) once voted: "Best interviewer: William Buckley. Best interviewee: William Buckley."

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### #1530: A Potpourri of Persuaders

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### #1528: World Leaders

Surely the most historic show of all: if you *missed* the great Buckley-Reagan Panama Canal Debate you can now see and hear the stunning final arguments for yourself. And Gerald Ford just days before he succeeded Richard Nixon (who *also* appears). Plus a feisty Margaret Thatcher, an urbane, witty Harold Macmillan, a smug Ferdinand Marcos, a droll Eugene McCarthy, and the surprisingly tough Robert Hawke (the Australian PM, who *deserves* to be better known)—it's all fine, dramatic "hindsight" history, with Host Buckley too in top form.

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admirable figure: very capable, quite ambitious too, but with a strong conscience that helped him to master his ambition. In his youth, Manning appeared destined for an excellent career in politics. The collapse of his father's business put an end to those hopes and precipitated a period of soul searching, which culminated in his spiritual conversion and his ordination in the Anglican Church. Given his ability and zeal, Manning could easily have risen to a position of prominence as an Anglican ecclesiastic. The year he took orders, though, was the same year that Newman published the first of the Oxford tracts. Although a strong Evangelical, Manning was impressed by the argument that religious fervor must have a firm doctrinal basis. For years thereafter he struggled with the questions raised by Newman. The latter's conversion to Roman Catholicism proved to be a turning point for Manning. When the Gorham case revealed the established church to be in some sense simply a department of the state, he abandoned Anglicanism. The following year he was received into the Catholic Church. Although Manning's subsequent career is often presented as an effortless rise to power, the truth is that he faced even more suspicion than Newman did. Manning was not indifferent to this hostility, but he did not allow it to dissipate his energies. He established an order of diocesan priests to work among the poor and fought to ensure that Catholic children would receive a Catholic education. His accomplishments as Cardinal Archbishop of Westminster are even more impressive. Manning's drive and energy were a good part of the human element in getting the First Vatican Council to define papal infallibility. He took firm stands on the difficult political questions of the day; at the age of 81 he personally intervened in the London dockworkers' strike to help obtain a fair settlement, and time and again he urged justice for the Irish. It would be too much to expect a biography to be worthy of such a subject. Mr. Gray's tone is too often flippant and mocking, and he is too quick to pass judgment. Nevertheless he provides a fair sketch of Cardinal Manning. The reader will come away from this book inclined to agree with Belloc's assessment of Manning—"the greatest Englishman of his time."

ROBERT P. ROONEY

## BRIDGES

(Continued from page 37)

dom about it; as Judge Wallace put it, the courts are "involved in re-engineering our society." In fact, he argued, since the impulse to assist what one believes to be a good cause by any means at hand is such a natural human temptation, it would in one sense be ideal if judges could render opinions on points of law with no knowledge of the likely practical results—just as, if you want to play cards, you must decide what rules you're playing by before you deal.

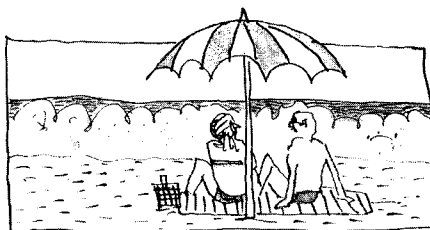
In the view of a member of the final panel, Gary McDowell of the Center for Judicial Studies, legislation by judiciary is not a danger confined to the Left. He sees some of the younger libertarian judges and law professors as being, like their liberal counterparts, result-oriented—and particularly dangerous to us since, happy with their results, we might let them undermine our resistance to judicial activism. Conservatives, said McDowell, should still want a "reduction in the Supreme Court's power—even if it's Justice Rehnquist who is wielding it."

So, what hope for the future? Professor Graglia sees little. It is his contention that, *pace* Professor Manne, no other branch of government, no other force in society, has done as much as the courts to shred the very fabric of our lives. They have rewritten American law "literally on matters of life and death"; they have reshuffled our public morality and public order, ruined the schools, even taken away from us the security of the streets—and there is no end in sight. "It is not written in the stars," he concluded, "that our nation will survive . . . and if it does go down, I think it will be because of judicial review."

Ralph Rossum of Claremont-McKenna College—conscious that "I'm following the colorful Professor Graglia, and he has said that what I'm about to say is visionary"—nonetheless offered some practical suggestions for

remedial action. There is impeachment, of course, and amendment; but both are dramatic and filled with risks. For a more modest course of action, our legislators might try using the exceptions clause (Article III, Section 2), whereby Congress simply writes into a particular law the provision that it is not subject to judicial review. Congress has been afraid to use this clause; but it shouldn't be, said Rossum: It is the only way, in the short run, to wrest some power back from the courts to the democratic process. Denying the validity of the exceptions clause would be to "deny an explicit power . . . in order to protect an inexplicit power," i.e., judicial review.

And, in the long run, we can hope for a reform of legal theory. At the beginning of the weekend we had heard "Bork's Wave Theory of Law Reform," a theory advanced to explain the current state of constitutional law: After World War II, said Bork, "the courts addressed what they regarded as social problems . . . and often did so without regard to any recognizable theory of constitutional interpretation. A tradition of looking to original intention was shattered. Constitutional theorists from the academies, in sympathy with the courts politically, began to construct theories to justify what was happening. So was non-originalism born. That wave has become a tsunami, and its intellectual and moral excesses are breathtaking. . . . But the second wave is rising." Second-wave theorists "return to first principles. They ask what the purpose of the law is, what legitimates the courts' behavior, and they begin to construct better theories of how courts should decide cases." The first members of this wave of constitutional theorists are now making names for themselves on the bench and in the academy—Ralph Winter, Frank Easterbrook, Henry Monaghan, and "—I always have to mention him because I love his title—Chief Justice of the High Court of American Samoa Grover Rees." And in the next generation, there are many young people of an interpretivist bent, rebelling against Critical Legal Studies and all of that, who plan to go into law teaching. "It may take ten years, it may take twenty years for the second wave to crest, but crest it will, and it will sweep the elegant, erudite, pretentious, and toxic detritus of non-originalism out to sea." □



M. IAN

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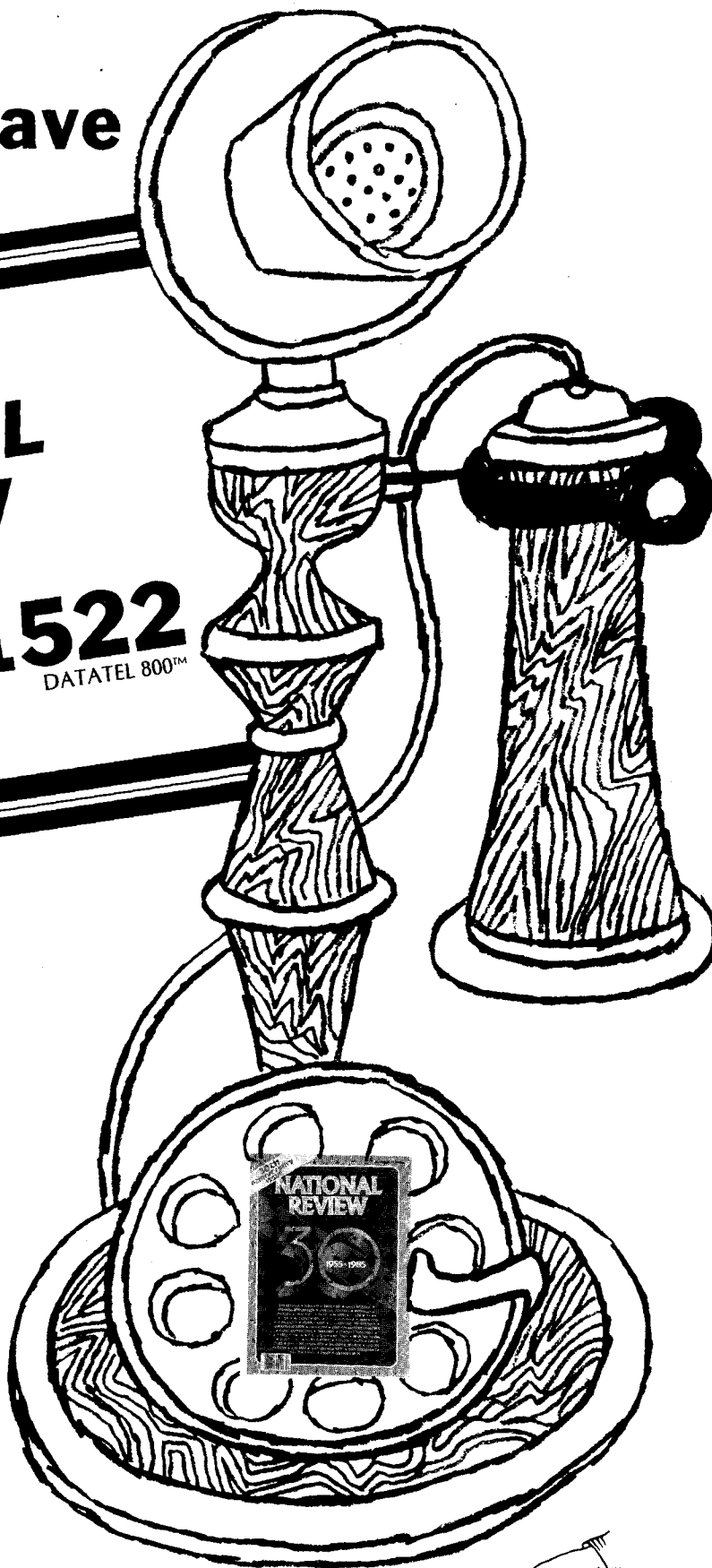
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## WELCOME TO THE SEVEN O'CLOCK NEWS

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NEW YORK, JULY 20

**G**OOD EVENING. This is Dan Blather with the evening news. Today in Washington, Admiral Poindexter testified that President Reagan knew nothing about the diversion to the Contras of funds from the sales of arms to Iran. In testifying to this effect, he left the congressional investigating committee with a hard task in any effort to establish that President Reagan had committed an impeachable offense. But let's get the story from Bill Grant at the White House. Bill?

Yes, Dan, it was a devastating development, viewed in one way. But several committee members have told us that the principal question they are investigating is the management style of President Reagan. They are asking: Is he actually in charge of the White House? As one member said, the people elected Reagan President, but what they got was an admiral and a colonel writing foreign policy. So Mr. Reagan isn't exactly out of the woods.

Thank you, Bill. Thank you ever so much. Let's hear from Leslie Stowe about the public reaction to the admiral's testimony. Come in, Leslie.

Thank you, Dan. Well, Dan, the people are saying something to the effect that you can't fool all the people all the time. Although Admiral Poindexter has denied that the President had any knowledge of the diversion of funds, a test sampling of 650 New Yorkers establishes that 52 per cent of the people simply do not believe that the President is telling the truth. But, of course, New Yorkers tend to be more sophisticated than non-New Yorkers. Out there, there are people who actually believe Ronald Reagan. Let's meet Mrs. Stilton in Indiana:

(Interview.) Do you believe Mr. Reagan is telling the truth, Mrs. Stilton?

Uh-huh.

Why do you believe he is telling the truth, Mrs. Stilton?

Santa Claus told me so.

Thank you very much, Mrs. Stilton. Back to you, Dan.

Oh, thank you so much, Leslie. That was very illuminating. We turn now to

Chris Dallas, who has a report on what was done with the funds diverted by the White House to the Contras. Come in, Chris.

Thank you, Dan. Well, a recent survey has shown that those funds were responsible for weapons and hand grenades with which the Contras are reported to have killed somewhere between two hundred and three hundred innocent peasants, mostly senior citizens over 65, and children under 15. Here is a report from Managua, from a Red Cross volunteer, a young American college student, Ben Rudman.

(Close-up, interview.) Ben, what exactly are the Contras doing with the money illegally given to them by the Reagan Administration?

Well, Chris, as you know, the Contras are mostly former followers of the dictator, Somoza, and they obviously want to get back into power, and they frankly don't care how they do it. If they have to destroy the entire civilian population of Nicaragua, that's just fine by them.

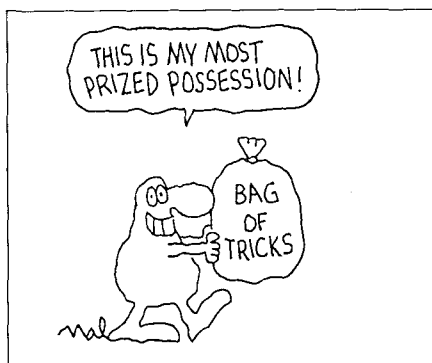
Thank you, Ben. Back to you, Dan.

Oh, Ben, how can I thank you enough? Well, we have now a report from Senator Orrin Hatch, a senior Republican who has all along defended President Reagan. Senator Hatch, may I ask you, sir, how it is possible for a national-security advisor to engage in such an operation without the knowledge of the President?

Well, Dan, look at it this way—

Thank you very much, Senator Hatch.

That, ladies and gentlemen, was Senator Hatch, defending President Reagan and Admiral Poindexter. Tomorrow's witness will be Robert McFarlane. He has asked to testify again, even though he testified last week. There are reports that he is very disturbed by the testimony of Admiral Poindexter and the testimony of Colonel North.



It is possible that Mr. McFarlane will come in with evidence that will contradict the testimony of Admiral Poindexter. Let's have a word with the senator in charge of the investigation, Senator Inouye. Senator Inouye, what is your opinion of the credibility of Admiral Poindexter?

(Close-up, interview.) Well, Dan, Admiral Poindexter took an oath when he was in the Naval Academy. In that oath he promised he would not lie and he would not cheat and he would not obey unlawful orders. But he has told the committee that he has done exactly that—lied, cheated, and obeyed unlawful orders.

Would you say, Senator, that it all reminds us of—Nuremberg?

Those are your words, Dan, not mine.

Oh, thank you, Senator Inouye. Thank you very much. And Bill, and Leslie, and Chris. Thank you all very much. You've made my day. □

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## JUST WONDERING

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NEW YORK, JULY 27

**S**ECRETARY OF STATE SHULTZ having come and gone, we have heard now from the main players, and two questions crowd the mind.

Admiral Poindexter told the investigating committee that he had not informed the President that Poindexter was diverting funds realized from the sale of arms to Iran because he did not wish to encumber the President with knowledge of something that might be conceived of as an irregularity; and that Admiral Poindexter had no reservations about putting the money to that use because he was certain such an act would have been approved of by Mr. Reagan.

Whereupon we heard from the White House the only truly sour note of the entire investigation. A spokesman for Mr. Reagan said: Not at all. Not only did the President not know about the diversion of funds (that we all knew), but the President would not have permitted that diversion had he been asked about it.

That is the most damaging statement President Reagan could have made, because it confirms the charge of his critics that Reagan was not in control of the policies being made in his name. Earlier, Mr. Rea-

gan was damaged by the Tower Commission, which found the President generally uninformed. "At no time," the report said, "did he insist upon accountability and performance review. . . . Setting priorities is not enough when it comes to sensitive and risky initiatives that directly affect U.S. national security."

What the President has done is in effect to corroborate his critics' charges of ill management. And the awful suspicion arises that he was induced to say what he did by advisors who gave insufficient thought to its implications. After all, given that Mr. Reagan did not know about the fund diversion, he has been free to make up his mind about its retroactive justification. And it is of course possible that what he would have agreed to do in the fall of 1985, he could not, in the summer of 1987, have agreed to go along with. We know from earlier statements that Mr. Reagan believes he made a wrong decision in agreeing in effect to swap arms for hostages. By the same token he may, in retrospect, have come to the conclusion that the fund diversion was politically excluded.

How much better it would have been if the President had said: "If the proposal had been made to me, I would have consulted my legal counselor. If he thought the diversion within my powers, I'd certainly have approved the use of the funds to keep the Contra movement alive pending Congress's refinancing of it." Not only would such a statement have been consistent with Mr. Reagan's general behavior—after all, he was willing to receive in the Oval Office foreign officials who had contributed money to the Contras, and to thank them for doing so—it would have fortified Admiral Poindexter. It is always useful to a President to have the opportunity to demonstrate to Congress and the American people why he chose to appoint the men he has selected to serve him. Admiral Poindexter said he was certain that President Reagan would have endorsed the fund diversion, and it transpires that Reagan would have done no such thing. The result? Poindexter's competence is severely challenged, and one is left to wonder why the President trusted an untrustworthy official.

A second anomaly is the posthumous portrait we are asked to accept of William Casey. Mr. Shultz urged Congress to believe that Casey was obsessed by his concern for the hostages, so much so that he was willing to conspire to release the terrorists in Kuwait in return for the hostages.

Now this is, quite simply, very hard to believe. Casey was a hard-boiled gentleman who was conversant with the practices of a hard-boiled profession (espionage and counter-espionage). The CIA is one of those lifestyles in which you can find yourself carrying cyanide in your mouth in case of failure. In case of failure you do not

expect that foreign policy will be changed to the advantage of the enemy. If the enemy was thus lightly to be regarded, there was hardly any point in risking life and limb in the first instance to do that enemy damage.

No, William Casey was not, believably, the sentimentalist willing to risk everything in return for an American hostage. And Ronald Reagan is not believably the man who would have recoiled from a financial maneuver that served an important plank in his foreign policy; nor, believably, the kind of man who would engage, in a position of critical power, an admiral who would misread the presidential mind on so important a point. □

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## WHERE IS LINKAGE?

NEW YORK, JULY 31

**A**S SO OFTEN happens, our preoccupation with the trees causes us to lose sight of the forest, which is the Soviet Union. We have been going on & on now for weeks and months arguing over eristic constitutional questions. But what was the problem in the first instance? The Contras. And why are the Contras a problem? Because they need help in order to prevail. Against what? Against the Sandinistas. And why do we care that the Sandinistas are running Nicaragua? Because they are engaged in constructing an aggressive military force whose purpose is to disrupt democratic life in Central America, and then in Mexico and in South America. How can a country as small as Nicaragua (population about three million) possibly dream so imperialistic a dream?

Because the Soviet Union is backing the whole enterprise. Cuba has only about ten million people, but it has troops in Angola, Mozambique, and Ethiopia. It has attempted sedition in Bolivia, Colombia, and Venezuela. And, through Nicaragua, it has ventured into El Salvador and Honduras. All of this made possible by arms that flow in from the Soviet Union.

Meanwhile, we are talking blissfully about the reduction of nuclear weapons in Europe. It is a dramatic lesson we are learning nothing from. Theoretically, we take a small step toward peace in Europe—while, a hemisphere away, in a banana republic in Central America, we are preoccupied with the damage being done. No, that isn't quite right. Some Americans are preoccupied with the damage being done. Other Americans are not preoccupied with the damage being done by the Sandinistas, but are very preoccupied with those Americans who are preoccupied with the possibility of the establishment of another Warsaw Pact power in Latin America.

Not bad, what Gorbachev has managed

to do with a few hundred million dollars, which presumably, under Zero Option, he can recoup by retiring his SS-20s, leaving him only his SS-18s, 23s, and 24s. Meanwhile, we are preparing to conclude our big-deal INF treaty, then on to another Summit, and we will *glasnost* each other with camaraderie & understanding.

Linkage is out of favor, as you will have noted. It is not at all clear why it should be so, but when Mr. Reagan rescinded the agricultural embargo shortly after assuming office, linkage began its retreat, even under the fancy name of asymmetrical retaliation. But the retreat of linkage is a retreat of the West, for so simple a reason as that the inventory of weapons we are willing to use is relatively limited. Whereas the Soviet Union is delighted to make trouble, through its satellites, in Ethiopia and Angola and Mozambique and Nicaragua, and directly in Afghanistan, we have always specialized in counter-salients. When the Soviet Union strikes out at Berlin, we defend Berlin (up until 1961, when we let East Berlin go). When it strikes at Korea, we defend Korea (up to the 38th Parallel). When it strikes in Vietnam, we defend Vietnam (until we run out of steam—after that, we leave it to the boat people to worry about).

**T**HE SOVIET UNION, meanwhile, uses any weapon it chooses to use, any place, in any way. Occasionally it suffers from linkage—Jimmy Carter didn't let our athletes go to the Olympics in Moscow in 1980, in retaliation for Afghanistan. But more often than not, the Communists get away with it by sheer tenacity, as also by the predictable failure of the West to consolidate its perspective.

Consider. Suppose that Ronald Reagan were to announce next week that all discussions having to do with the reduction of nuclear weapons in Western Europe would be suspended until after the Soviet Union had demilitarized Nicaragua and Cuba. There is very little sense—the President might say—in worrying about the demilitarization of the Eastern Hemisphere when we have not yet succeeded in demilitarizing our own hemisphere.

What then would happen? The European peaceniks would grow very very wroth. And huge domestic pressures would build. All the talk would be about Reagan's intransigence, not about the Soviet Union's. This is the ultimate weapon of the totalitarian society that disposes of apocalyptic weapons: It has the capacity to distort perspectives. To talk grandly about *glasnost* and an insignificant reduction in nuclear inventory while all of America stares at the television set to determine who said what when to whom about arms for the Contras, never pausing to ask why we need arms for the Contras. □

(Universal Press Syndicate)

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# TRANS-O-GRAM / KEM PUTNEY

## DEFINITIONS

- A. Congressional omission? 165 57 93 5 30 135 21 151 74
- B. Coven's official inquiry? 18 123 140 24 108 37 115 92 132
- C. Resembling a leprechaun 38 104 114 164 63
- D. British nurse 136 56 101 68 129
- E. One kind of combat (hyph.) 96 152 110 3 163 16 48 39 59 71
- F. Offended 120 81 14 75 33 166 50 134 94
- G. 1975 World Series team (2 words) 128 78 145 9 91 52
- H. Rival of definition G 40 105 137 121 80 27 61
- I. With definition N, Congress's latest exercise in folly (hyph.) 154 19 113 98 119 87 34 167 7 143
- J. Mathematical sentences 150 125 11 53 23 169 155 70 84
- K. Meets 139 41 170 88

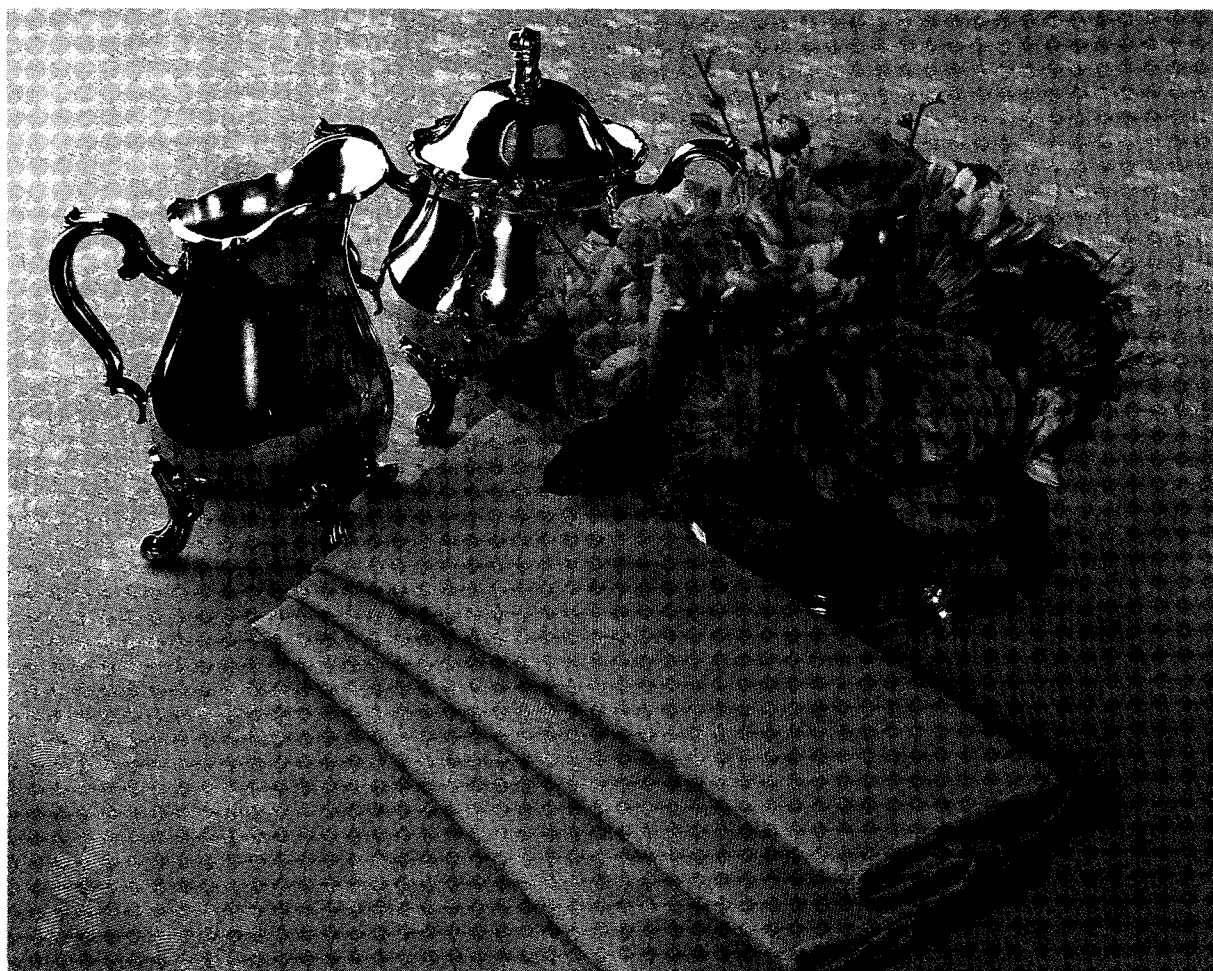
- L. Jim Wright's brand of politics? (hyph.) 45 127 117 149 67 156 12 29 161
- M. Where the Seven Dwarfs will square off next February (2 words) 2 103 77 133 35 17 90 118 146 157 83 49
- N. See definition I 22 8 100 159 82 42 60 148
- O. Fictional Yiddish character (var.) 109 13 144 95 32 65
- P. Judge Walsh is a special one 86 141 111 10 122 99 1 47 25 79
- Q. What the farmer was—in his field 130 138 85 55 112 162 158 64 20 124 43
- R. Buzzword of the D.C. press corps 102 66 153 51 28 126 6
- S. Versions 15 4 46 106 69 89 58 168 131 31
- T. Carpenter's decorations 147 26 116 62 76 54
- U. Stitches 73 160 107 44
- V. One kind of log 142 72 36 97

|       |       |       |       |       |       |       |      |       |       |       |       |       |       |       |       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|-------|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 1 P   | 2 M   | 3 E   | 4 S   | 5 A   |       | 6 R   | 7 I  | 8 N   | 9 G   | 10 P  | 11 J  | 12 L  | 13 Q  |       | 14 F  | 15 S  | 16 E  | 17 M  |       | 18 B  |
| 19 I  | 20 Q  | 21 A  | 22 N  | 23 J  |       | 24 B  | 25 P | 26 T  | 27 H  | 28 R  | 29 L  | 30 A  | 31 S  | 32 Q  | 33 F  | 34 I  | 35 M  | 36 V  |       | 37 B  |
| 38 C  | 39 E  | 40 H  | 41 K  | 42 N  | 43 Q  | 44 U  |      | 45 L  | 46 S  |       | 47 P  | 48 E  | 49 M  |       | 50 F  | 51 R  | 52 G  | 53 J  | 54 T  |       |
| 55 Q  | 56 D  | 57 A  | 58 S  | 59 E  | 60 N  | 61 H  |      | 62 T  | 63 C  | 64 Q  |       | 65 Q  | 66 R  | 67 L  | 68 D  |       | 69 S  | 70 J  | 71 E  | 72 V  |
| 73 U  | 74 A  | 75 F  | 76 T  |       | 77 M  | 78 G  | 79 P | 80 H  |       | 81 F  | 82 N  | 83 M  | 84 J  | 85 Q  |       | 86 P  | 87 I  | 88 K  | 89 S  | 90 M  |
| 91 G  | 92 B  | 93 A  | 94 F  |       | 95 Q  | 96 E  | 97 V | 98 I  |       | 99 P  | 100 N | 101 D | 102 R | 103 M | 104 C | 105 H | 106 S |       | 107 U | 108 B |
| 109 Q |       | 110 E | 111 P | 112 Q |       | 113 I |      | 114 C | 115 B | 116 T | 117 L | 118 M | 119 I | 120 F | 121 H | 122 P |       | 123 B | 124 Q | 125 J |
| 126 R | 127 L | 128 G | 129 D |       | 130 Q | 131 S |      | 132 B | 133 M | 134 F |       | 135 A | 136 D | 137 H | 138 Q | 139 K | 140 B | 141 P | 142 V |       |
| 143 I | 144 Q | 145 G |       | 146 M | 147 T | 148 N |      | 149 L | 150 J | 151 A | 152 E | 153 R | 154 I | 155 J | 156 L |       | 157 M | 158 Q |       | 159 N |
| 160 U | 161 L | 162 Q | 163 E | 164 C | 165 A | 166 F |      | 167 I | 168 S |       | 169 J | 170 K |       |       |       |       |       |       |       |       |

## DIRECTIONS

The object of TRANS-O-GRAM is to fill in the puzzle diagram by guessing the words from their definitions, and transferring each letter of the guessed word to the correspondingly numbered square in the diagram. When the diagram is filled in it will spell out a quotation from some published work (reading normally from left to right, black boxes indicating the ends of words); also, when the words have all been filled in above, their initial letters will spell out the author and title of the quoted work. The acoustic feature, and the relative word-lengths in the diagram, will assist in the solution. Spelling and definitions on the authority of *Webster's New International Dictionary*, Second Edition. See page 60 for solution to last Trans-O-Gram.

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